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TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, [illegible] 1912.

No. [illegible] 68.

URSZULIA SAKONAITE, APPELLANT,

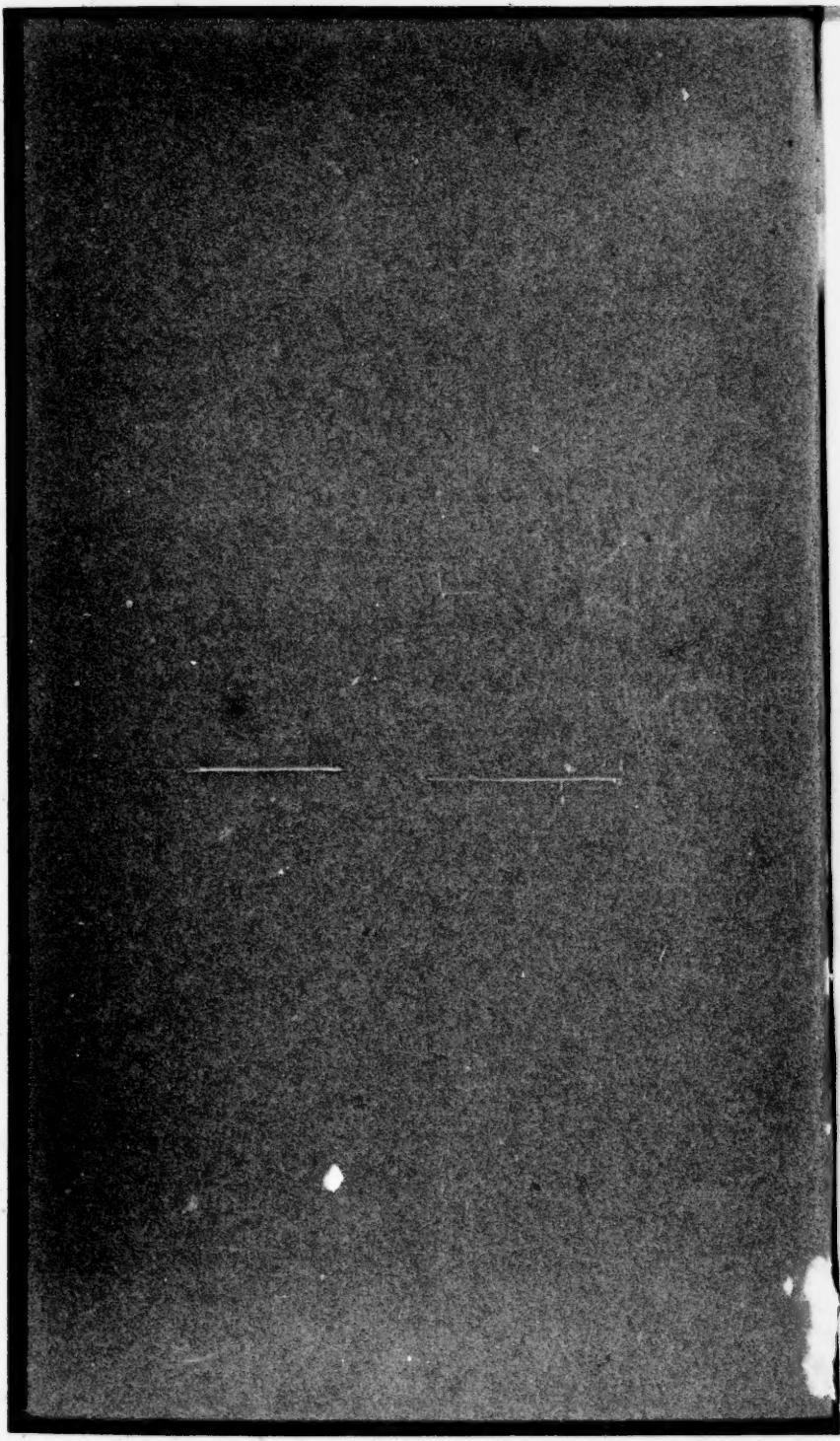
vs.

[illegible] J. WOLF, JAILOR OF THE CITY OF ST. [illegible]

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF MISSOURI.

FILED MAY 23, 1913.

(23,161)



(22,161.)

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1910.

No. 547.

URSZULIA ZAKONAITE, APPELLANT,

vs.

CASPER J. WOLF, JAILOR OF THE CITY OF ST. LOUIS.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF MISSOURI.

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JUDD & DETWEILER (INC.), PRINTERS, WASHINGTON, D. C., MAY 19, 1911.

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1 THE UNITED STATES OF AMERICA:

To Casper J. Wolf, Jailor of the City of St. Louis, Greeting:

You are hereby cited and admonished to be and appear in the Supreme Court of the United States, in the City of Washington, in the District of Columbia, thirty (30) days from and after the day this citation bears date, pursuant to an appeal filed in the Clerk's Office of the District Court of the United States for the Eastern Division of the Eastern Judicial District of Missouri, wherein Urszulia Zakonaite is Appellant and you are Appellee, to show cause, if any there be, why the judgment rendered against the said Appellant as in the said appeal mentioned should not be corrected, and why speedy justice should not be done the parties in that behalf.

Witness the Honorable David P. Dyer, Judge of the District Court of the United States for the Eastern Division of the Eastern Judicial District of Missouri, this 9th day of April, in the year of our Lord Nineteen Hundred and Ten.

[Seal of the United States District Court, Eastern Division of the Eastern Judicial District of Missouri.]

DAVID P. DYER,
Judge of the District Court of the United States for the Eastern Division of the Eastern Judicial District of Missouri.

Service of the above citation accepted April 19, 1910.

CASPAR J. WOLF,
Jailor of the City of St. Louis.
CASPER J. WOLF, *Appellee,*
By TRUMAN P. YOUNG, *U. S. Attorney,*
His Attorney.

[Endorsed:] Case No. 3870. United States District Court, Eastern Division of the Eastern Judicial District of Missouri. In the matter of Ursulia Zakonaite. Citation. Filed April 19th, 1910. W. W. Nall, Clerk.

2 UNITED STATES OF AMERICA,
Eastern Division of the Eastern Judicial District of Missouri, ss:

In the District Court of the United States in and for said Division of said District.

Be it remembered That heretofore, to-wit: on the 17th day of January, A. D. 1910, there was filed in the Office of the Clerk of Said Court, a Petition for a Writ of Habeas Corpus, which said Petition is in words and figures as follows, to-wit:

UNITED STATES OF AMERICA,
Eastern Division of the Eastern Judicial District of Missouri, ss:

In the United States District Court.

In the Matter of URSULIA ZAKONAITE.

Petition for Writ of Habeas Corpus.

To the Honorable David P. Dyer, Judge of the United States District Court:

Your Petitioner, Ursulia Zakonaite, respectively represents to Your Honor, that your Petitioner is unlawfully deprived and restrained of her liberty by one, Casper J. Wolf, Jailer of the St. Louis City Jail, and is confined in the City Jail for the said City of St. Louis, within the Eastern Division of the Eastern Judicial District of Missouri.

Your Petitioner further states that she is of the Lithuanian race and born in Russia and arrived in the United States on the 27th day of Sept. 1908 at the Port of New York City and thereafter came to the City of East St. Louis, Illinois, where she was apprehended on the 5th day of January, 1910, and brought to the City of
3 St. Louis, Missouri, upon a telegraphic warrant issued by the Commissioner of Commerce and Labor charging her with being in the Country unlawfully, in that the said Ursulia Zakonaite was brought into the Country for immoral purposes and prostitution;

That thereafter, to-wit: January 7th, 1910, she was taken before the Honorable James R. Dunn, Inspector in Charge, and a representative of the Department of Commerce and Labor in the City of St. Louis, Missouri; that she was there examined through an Interpreter by the said James R. Dunn as to certain matters pertaining to her right to be in the Country;

She is informed and believes that the statements so translated by the Interpreter misrepresent the real and true answers made by her in her own language; and she is charged with having admitted in said statements so made that she was within three years after her arrival, practicing prostitution, whereas in truth and fact she did not make such statements or admissions to the interpreter, and the interpreter through mistake or fraud upon his part misinterpreted the answers to the questions propounded to her.

Your petitioner further states that she has been confined in the said Jail since the said 7th day of January, 1910 without warrant of law or the order of this Honorable Court, and she is being detained and restrained of her liberty by the said Casper J. Wolf without authority of law.

Your Petitioner further states that no application for the relief sought hereto has been made to or refused by any other Court, officer or officers superior to the one —whom this petition is presented.

Wherefore your petitioner prays that a Writ of Habeas Corpus be issued herein directing the said Casper J. Wolf to pro-
4 duce the body of the said Ursulia Zakonaite before this Honorable Court in order that the said Ursulia Zakonaite may be discharged from the said unlawful restraint and restored to all of her rights guaranteed to her by law.

HORACE L. DYER,
Attorney for Petitioner.

This applicant, your petitioner makes oath and says that the facts stated in the foregoing petition are true according to her best knowledge and belief.

her
URSULIA x ZAKONAITE.
mark

Subscribed and sworn to before me this 17th day of January, 1910.

[SEAL.] FANNIE E. WEBER,
Notary Public.

My Commission expires Dec. 6, 1901.

Indorsed: #3870. In the matter of Ursulia Zakonaite. Petition for Writ of Habeas Corpus. Let Writ issue returnable Monday, Jan'y 24th, 1910. David P. Dyer, Judge. Filed Jan. 17th, 1910. W. W. Nall, Clerk.

And thereupon, on the said 17th day of January, A. D., 1910, there was issued out of the Clerk's Office of said Court, a writ of habeas corpus, which together with the Marshal's Return thereon, is in words and figures as follows, to-wit:

5 *Writ of Habeas Corpus.*

In the District Court of the United States, Eastern Division of the Eastern Judicial District of Missouri.

The President of the United States of America to Casper J. Wolf, Jailer of the St. Louis City Jail, St. Louis, Mo., Greeting:

We command you that you do, on Monday Morning, January 24th, 1910, at ten o'clock in the forenoon, according to law, without excuse or delay, bring or cause to be brought before the Honorable District Court of the United States for the Eastern Division of the Eastern Judicial District of Missouri, at the City of St. Louis, Missouri, the body of Ursulia Zakonaite, by whatever name or addition she is known or called, who is unlawfully restrained of her liberty by you, as it is said, together with the day and cause of her restraint, then and there to abide such order and direction of our Court as our said Court shall make in that behalf, and have with you this writ with your return endorsed thereon, and herein fail not at your peril.

Witness the Honorable David P. Dyer, Judge of the District Court of the United States, in and for the Eastern Division of the Eastern Judicial District of Missouri, this 17th day of January, in the Year of Our Lord, One-Thousand, Nine-Hundred, Ten.

In witness whereof, I hereunto set my hand and affix the Seal of Said Court at Office in the City of St. Louis this 17th day of January, 1910.

[SEAL.]

W. W. NALL,
Clerk of the District Court for the Eastern Division of the Eastern Judicial District of Missouri.

6 Indorsed: Case No. 3870. In the District Court of the United States, Eastern Division of the Eastern Judicial District of Missouri. In the matter of Ursulia Zakonaite. Writ of habeas corpus. Filed January 19th, 1910. W. W. Nail, Clerk. (For Return).

Marshal's Return.

UNITED STATES OF AMERICA,
Eastern District of Missouri, ss:

I do hereby certify That at the City of St. Louis, Mo., in the Eastern District of Missouri, on the 19th day of January A. D., 1910, I executed this Writ by delivering a copy thereof, as furnished by the Clerk, to the within named Caspar J. Wolf, Jailer of the St. Louis City Jail.

WM. L. MORSEY,
U. S. Marshal.
By J. J. WILLIAMS, *Deputy.*

And afterwards, to-wit: on the 24th day of January, A. D., 1910, the following proceedings were had and appear of Record in said Cause to-wit:

3870.

In the Matter of URSULIA ZAKONAITE.

Petition for Writ of Habeas Corpus.

This day comes Caspar J. Wolff, Jailer of the City of St. Louis, and files a return to the Writ of Habeas Corpus heretofore issued against Caspar J. Wolff, the Respondent herein.

And thereupon on motion of Ursulia Zakonaite, the petitioner herein, by Horace L. Dyer, Esquire, her Attorney, the Court
7 doth order that the petitioner be allowed to give a Bond for her appearance herein in the Sum of One-Thousand ($1000.00) Dollars, said Bond to be approved by a United States Commissioner. And the Court doth further order that the Petitioner herein be granted twenty days from this date to plead to the Return of the Respondent herein.

The Return to Writ of Habeas Corpus, referred to in the foregoing order, being in words and figures as follows, to-wit:

8 *Return to Writ of Habeas Corpus.*

UNITED STATES OF AMERICA,
Eastern Division of the Eastern Judicial District of Missouri, ss:

In the District Court of the United States for the Eastern Division of the Eastern Judicial District of Missouri.

No. —.

In *re* the Matter of URSULIA ZAKONAITE.

Return of Caspar J. Wolff, Jailer City of St. Louis, to Writ of Habeas Corpus.

Caspar J. Wolff, Jailer of the City of St. Louis, makes return to the Writ of Habeas Corpus served upon him on the 17th day of January A. D., 1910, and for return to said Writ, states that the said Ursulia Zakonaite is held in custody by virtue of the Act of Congress entitled "An Act to Regulate the Immigration of Aliens into the United States" passed on the 20th day of February, 1907, and by virtue of the regulations of the Department of Commerce & Labor and Bureau of Immigration and Naturalization; and respondent further states that in accordance with Rule 35 of said Rules and Regulations, James R. Dunn, Inspector in Charge of the Immigration Service of the United States, at St. Louis, Missouri, made an application for a warrant for the arrest of said Ursulia Zakonaite, and that thereupon, to-wit, on the 5th day of January, 1910, a Warrant was duly issued by Benjamin S. Cable, acting Secretary of Commerce and Labor, and in accordance with the Regulations aforesaid, which said warrant is in words and figures as follows:

"*Warrant—Arrest of Alien.*

UNITED STATES OF AMERICA,
Department of Commerce and Labor, Washington:

9 No. 527 42-52.

To James R. Dunn, Inspector in Charge, St. Louis, Mo., or to any Immigrant Inspector in the Service of the United States:

Whereas, from evidence submitted to me it appears that Ursulia Zakonaite, alien, who landed at the Port of New York within a period of three years has been found in the United States in violation of the Act of Congress approved February 20, 1907, to-wit: that the said — is a prostitute; that she was such at the time of entry;

that she entered the United States for the purpose of prostitution or other immoral purpose and has been found an inmate of a house of prostitution and practicing prostitution within three years after entry.

I, Benj. S. Cable, Acting Secretary of Commerce and Labor, by virtue of the power and authority vested in me by the Laws of the United States, do hereby command you to take into custody the said alien and grant her a hearing to enable her to show cause why she should not be deported in conformity with law.

The expenses of execution and detention are authorized payable from the appropriation "Expenses of Regulating Immigration, 1910." Pending disposition of her case the alien may be released from custody upon furnishing a satisfactory bond in the sum of One-Thousand Dollars, provided that the sum is deemed sufficient to insure her appearance at the proper time; otherwise appropriate recommendation should be made for an increase in the amount of bond.

For so doing this shall be your sufficient warrant.

Witness my hand and seal this 5th day of January, 1910.

(Signed) BENJ. S. CABLE.
Acting Secretary of Commerce and Labor."

J. S. B.

10 And Respondent further states that thereafter the said Ursulia Zakonaite was apprehended under said warrant and that she was in his custody when said writ of Habeas Corpus was served upon him; that after the arrest of said applicant a hearing was accorded to her, in accordance with Rule 35, Paragraph E of the Rules & Regulations of the Department of Commerce and Labor aforesaid, and that after said hearing, and as the result of said hearing, the Secretary of Commerce and Labor found, as a matter of fact, upon all the evidence in the case, that the said Ursulia Zakonaite was in the United States in violation of Section 3 of the Act of February 20th, 1907, and is subject to deportation from the United States; that she is an alien and landed in this Country within less than three years from the date of the issuance of said warrant; and that the allegations contained in the warrant issued to James R. Dunn by Benjamin S. Cable, Acting Secretary of Commerce and Labor, on the 5th day of January, 1910, were and are true; and that thereupon, said Secretary of Commerce and Labor, by and through Benjamin S. Cable, Assistant Secretary issued a warrant for the deportation of said Ursulia Zakonaite to the Commissioner of Immigration at New York, and notified the Inspector in Charge of the Immigration Service at St. Louis, Missouri, in a letter, that said warrant of Deportation had been issued, and instructed said Inspector in Charge of Immigration at St. Louis, Missouri, to cause said Ursulia Zakonaite to be conveyed to the City of New York for deportation; said warrant for Deportation is in words and figures as follows, to-wit:

"*Warrant—Deportation of Alien.*

UNITED STATES OF AMERICA,
Department of Commerce and Labor, Washington:

No. 527 42/52. No. 1931.

11 To William Williams, Commissioner of Immigration, Ellis Island, N. Y. H.:

Whereas, from proofs submitted to me, after due hearing before Inspector in Charge James R. Dunn, held at St. Louis, Mo., I have become satisfied that Ursulia Zakonaite, alien, who landed at the Port of New York, N. Y. on or about the 1st day of September, 1908, is in this country in violation of the Act of Congress approved February 20th, 1907, to-wit: That the said alien is a prostitute and has been found practicing prostitution within three years after landing has not elapsed:

I, Benj. S. Cable, Acting Secretary of Commerce and Labor, by virtue of the power and authority vested in me by the laws of the United States, do hereby command you to return the said alien to Russia whence she came, at the expense of the steamship company importing her, if possible, the alien to be given a further examination upon delivery at New York with a view to verifying landing. If landing cannot be verified authority is hereby granted for the purchase of transportation at lowest schedule rates payable from the appropriation "Expenses of Regulating Immigration, 1910."

For so doing this shall be your sufficient warrant.

Witness my hand and seal this 18th day of January, 1910.

BENJ. S. CABLE,
Acting Secretary of Commerce and Labor."

And Respondent further states that the question as to the truth or falsity of the charges contained in the Warrant of Arrest, as above set out, is a question to be decided, in accordance with the Act of Congress of February 20th, 1907, Section 21, by the Secretary of Commerce and Labor, and that this Court is without jurisdiction to pass upon said question, and that this Court is without ju-

12 risdiction to determine the facts, whether or not the said Ursulia Zakonaite is subject to deportation under Section 3 of said Act of February 20th, 1907, or upon any other of the questions of fact attempted to be raised by the petition for writ of Habeas Corpus herein.

And Respondent further states that the testimony in this case was taken through an interpreter before the said James R. Dunn, Inspector in Charge of Immigration at St. Louis, and was reduced to writing and forwarded to the Secretary of Commerce and Labor for final action by him. That applicant's remedy for the correction of any mistake in said testimony, or in the finding thereon, lay in an appeal to the Secretary of Commerce and Labor; that the Secretary

of Commerce and Labor alone has power to pass upon the facts in such case and that he alone has power to set aside the order of deportation entered against the said Ursulia Zakonaite.

And Respondent further says that he is holding said prisoner under the authority of said warrants of arrest and deportation for and on behalf of said James R. Dunn, and for and on behalf of the United States by virtue of a contract and agreement whereby Federal prisoners in the City of St. Louis are kept in custody by him.

Wherefore, having made complete return to said writ of Habeas Corpus served upon him, respondent asks to be hence dismissed with his costs, and that the said Ursulia Zakonaite be returned to his custody.

CASPAR J. WOLF,
Jailer of the City of St. Louis, a Sworn Public Officer of the State of Missouri.

By TRUMAN P. YOUNG,
Assistant United States Attorney.

13 Indorsed: No. 3870. United States District Court, E. Div. E. Dist. of Missouri. In the Matter of Ursulia Zakonaite. Return to Writ of Habeas Corpus. Filed Jan. 24, 1910. W. W. Nall, Clerk.

And afterwards, to-wit: on the 14th day of February, A. D., 1910, the following further proceedings were had and appear of Record in said Cause, to-wit:

In the Matter of URSULIA ZAKONAITE.

Petition for Writ of Habeas Corpus.

This day comes the United States by District Attorney, and also comes the Petitioner, Ursulia Zakonaite, by Horace L. Dyer, Esquire, her Attorney, and with the leave of Court is granted ten days from and after February 12th, 1910, in which to file affidavits in this matter. And it is ordered by the Court that the Petitioner be and appear at and before this Court on Wednesday, February 23d, 1910, in obedience to the Recognizance entered into by her in this Cause.

And afterwards, to-wit: on the 24th day of February, A. D., 1910, the following further proceedings were had and appear of Record in said Cause, to-wit:

14 3870.

In the Matter of URSULIA ZAKONAITE.

Petition for Writ of Habeas Corpus.

This day comes Caspar J. Wolff, Jailer of the City of St. Louis, Respondent herein, by Truman P. Young, Assistant United States

Attorney, and with the leave of Court files a further Return to the Petition in this Cause; and on Motion of Ursulia Zakonaite, the Petitioner herein, by Horace L. Dyer and G. L. Pope, Esquires, her Attorneys, is granted until March 2d, 1910, to plead to the further return of the Respondent in this Cause. And thereupon G. L. Pope entered his appearance in open Court as one of the Counsel for Ursulia Zakonaite, the Petitioner herein.

The further return to writ of habeas corpus, referred to in the above order, being in words and figures as follows, to-wit:

15 UNITED STATES OF AMERICA,
Eastern Division of the Eastern Judicial District of Missouri, ss:

In the District Court of the United States for the Eastern Division of the Eastern Judicial District of Missouri.

No. —.

In *re* the Matter of URSULIA ZAKONAITE.

Supplemental Return of Caspar J. Wolff, Jailer of the City of St. Louis, to Writ of Habeas Corpus.

For further return to the writ of *Habeas Corpus* served upon him on the 17th day of January, A. D. 1910, Caspar J. Wolff, Jailer of the City of St. Louis, State of Missouri, states that since filing his original return to said Writ the said Ursulia Zakonaite was granted a rehearing by the Secretary of Commerce and Labor upon the charges contained in the Warrant of Arrest, set forth in the Respondent's original return, and that after such re-hearing, and after a careful consideration of the entire evidence, said Secretary of Commerce & Labor reaffirmed his former decision on the 16th day of February, 1910, and again notified James R. Dunn, the Inspector in Charge of the Immigration Service at the City of St. Louis, that the Warrant for the deportation of the said Ursulia Zakonaite had been issued.

Wherefore, Respondent again asks to be hence dismissed with his costs, and that the said Ursulia Zakonaite be returned to his custody.

CASPAR J. WOLFF,
Jailer of the City of St. Louis, a Sworn Public Officer of the State of Missouri.
CHARLES A. HOUTS,
United States Attorney.
TRUMAN P. YOUNG,
Ass't U. S. Att'y.

16 Indorsed: No. 3870. United States District Court, E. Div., E. Dist. of Missouri. In the Matter of Ursulia Zakonaite. Further return to writ of Habeas Corpus. Filed Feb. 24, 1910. W. W. Nall, Clerk.

The Bond required of Petitioner herein, as per Order of Court of date of January 24th, A. D. 1910, being in words and figures as follows, to-wit:

Bond.

Know all men by these presents, That we, Urzula Zakonaite, as Principal, and August Stelmakocz, as surety, are held and firmly bound unto the United States of America, in the Sum of One-Thousand, ($1,000) Dollars. The condition of the above obligation is such that,

Whereas, the said Urzula Zakonaite, is now in the custody of the jailor of the City of St. Louis, charged by the immigration Department of the United States, with practicing prostitution within three years after her entry into the United States, and

Whereas, the said Urzula Zakonaite, has obtained a Writ of Habeas Corpus from the United States District Court for the Eastern Division of the Eastern Judicial District of Missouri, and the hearing on said Writ has been set for Monday, February, 14th, 1910.

17 Now therefore, if the said Urzula Zakonaite, shall be and appear before the said United States District Court for the Eastern Division of the Eastern Judicial District of Missouri, on said 14th day of February, 1910, at the hour of ten o'clock A. M., on said day, and from time to time thereafter as the Court may order, then this recognizance shall be void; otherwise to remain in full force and effect.

Dated this 4th day of February, 1910.

her
URSULA x ZAKONAITE.
mark
AUGUST STELMAKOWCZ.
1026 *Loughborough Ave.*

Witness- to mark & signature of Ursulia Zakonaite,

H. L. DYER,
KARL RUTTER.

Signed and acknowledged by the above parties, this 4th day of February, 1910.

[SEAL.]

CHASE MORSEY,
United States Commissioner.

Indorsed: In re Urzola Zackonaite. Bond. Filed Feb. 25, 1910. W. W. Nall, Clerk.

And afterwards, to-wit: on the 9th day of March, A. D. 1910, (In Vacation), the following further proceedings were had and appear of Record in said Cause, to-wit:

18 3870.

In the Matter of URSULIA ZAKONAITE.

Petition for Writ of Habeas Corpus.

This day comes Ursulia Zakonaite, the Petitioner herein, by Horace L. Dyer, one of her Counsel, and files a reply to the Return of Caspar J. Wolff, the Respondent in this Cause, to the Writ of Habeas Corpus herein.

The Reply of the Petitioner herein, referred to in the foregoing order, being in words and figures as follows, to-wit:

UNITED STATES OF AMERICA,
Eastern Division of the Eastern
Judicial District of Missouri, ss:

In the District Court of the United States

In the Matter of URSULIA ZAKONAITE.

Reply to the Return of Casper J. Wolf to Writ of Habeas Corpus.

Now comes Ursulia Zakonaite, Petitioner herein, and for her reply to the Return to the Writ of Habeas Corpus states:

That while it is true that a warrant of Deportation was issued by Benjamin S. Cable, acting Secretary of Commerce and Labor, as set forth in the return of the said Jailer, yet the Warrant itself shows upon its fact that there was no evidence submitted to the said Acting Secretary of Commerce and Labor, upon which a warrant of deportation could be based.

Petitioner further states that there was no evidence upon which a warrant of deportation could be based, and that the only matter submitted to the said Secretary of Commerce and Labor was
19 the alleged admission of the said alien in a hearing before the Honorable James R. Dunn, Inspector in Charge at the City of St. Louis, Missouri, which said alleged admissions were not made by the said Petitioner as fully appears by the testimony given by the said alien before the said James R. Dunn on the 1st day of February, 1910, and that the alleged admissions made before the said James R. Dunn on January 7th, 1910, were so translated through fraud, or mistaken interpretation, upon the part of the interpreter employed at that time by the said James R. Dunn to interpret from the Lithuanian language into the English language.

For further reply to the return herein, petitioner states that Section 3 of the Act of Congress of February 20th, 1907, "An Act to regulate the immigration of aliens into the United States," is unconstitutional, in that it attempts to interfere with the police powers of a State, to-wit, the State of Illinois.

For further reply to the return *of* the Writ herein, the said Peti-

tioner states that she was unlawfully apprehended in the State of Illinois, and through force and without her consent and against her will brought into the State of Missouri and into the jurisdiction of this Court without an order of removal from the District of Illinois, to the Eastern District of Missouri, or without any other legal process.

Wherefore your Petitioner prays that she be discharged from the said unlawful restraint and restored to all of the rights guaranteed to her by law, as heretofore prayed for in her application for the Writ of Habeas Corpus.

HORACE L. DYER,
Attorney for Petitioner.

20 Indorsed: Case No. 3870. In the District Court of the United States. In the Matter of Ursulia Zakonaite. Reply to the Return of Casper J. Wolf to Writ of Habeas Corpus. Filed Mar. 9, 1910. W. W. Nall, Clerk.

And afterwards, to-wit: on the 12th day of March, A. D. 1910, the following proceedings were had and appear of Record in said Cause, to-wit:

3870.

In the Matter of URSULIA ZAKONAITE.

Petition for Writ of Habeas Corpus.

This day comes Ursulia Zakonaite the Petitioner herein, by Horace L. Dyer and G. L. Pope, her Attorneys and also comes Casper J. Wolff, Jailer of the City of St. Louis, the Respondent herein, by Truman P. Young, Assistant United States Attorney, and this matter coming on to be heard before the Court without the intervention of a jury, the pleadings are read and arguments made by Counsel, and said matter is submitted to the Court and the Court not being fully advised in the premises takes further time in which to consider the Judgment to be rendered herein.

21 And afterwards, to-wit: on the 4th day of April, A. D. 1910, the following further proceedings were had and appear of Record in said Cause, to-wit:

3870.

In the Matter of URSULIA ZAKONAITE.

Petition for Writ of Habeas Corpus.

This cause came on to be heard before the Court without the intervention of a Jury on March 12th, 1910, upon the pleadings filed in this Cause and upon the arguments of counsel said Cause was

submitted to the Court and the Court upon the consideration of said Cause, doth order that the Writ of Habeas Corpus issued in this Cause be and the same is hereby dismissed.

And it is further ordered by the Court that Ursulia Zakonaite, the Petitioner herein, appear at and before this Court on Saturday, April 9th, 1910, in obedience to the Recognizance heretofore entered into by her in this Cause.

22 *Opinion of Court.*

In the United States District Court, Eastern Division of the Eastern Judicial District of Missouri.

In the Matter of URSULIA ZAKONAITE.

DYER, *J.*:

On the 18th of January last the Secretary of Commerce and Labor issued a Warrant for the Deportation of Ursulia Zakonaite, which was in the words and figures as follows:

Warrant—Deportation of Alien.

UNITED STATES OF AMERICA,
Department of Commerce and Labor, Washington:

No. 527 42/52. No. 1931.

To William Williams, Commissioner of Immigration, Ellis Island, N. Y. H.:

Whereas, from proofs submitted to me, after due hearing before Inspector in Charge James R. Dunn, held at St. Louis, Mo., I have become satisfied that Ursulia Zakonaite, alien, who landed at the Port of New York, N. Y., on or about the 1st day of September, 1908, is in this Country in violation of the Act of Congress approved February 20th, 1907, to-wit:

That the said alien is a prostitute and has been found practicing prostitution within three years of entry; and whereas the period of three years after landing has not elapsed:

I, Benj. S. Cable, Acting Secretary of Commerce and Labor, by virtue of the power and authority vested in me by the Laws of the United States, do hereby command you to return the said
23 alien to Russia, whence she came, at the expense of the steamship company importing her, if possible, the alien to be given further examination upon delivery at New York with a view to verifying landing. If landing cannot be verified authority is hereby granted for the purchase of transportation at lowest schedule rates, payable from the appropriation "Expenses of Regulating Immigration, 1910."

For so doing this shall be your sufficient warrant.

Witness my hand and seal this 18th day of January, 1910.

BENJ. S. CABLE,
Acting Secretary of Commerce and Labor."

The person named in said warrant and deportation to-wit. Ursulia Zakonaite, was found in East St. Louis, in the State of Illinois, and without proper process of law was brought into this jurisdiction and by James R. Dunn, Esq., Inspector in Charge, lodged in the City Jail of St. Louis.

A Petition was presented by the said Ursulia Zakonaite to this court for a writ of Habeas Corpus in which she alleged illegal restraint by the jailer. The writ was issued and the jailer made return thereto, in which he recited the warrant above described as his authority for detaining her etc.

To this return a reply was filed charging:

1st. That there was no competent testimony furnished the secretary upon which he could properly base the order of deportation.

2d. That the following portion of Section 3 of the Act of Congress of February, 1907, (C. 1134-34 Stats., 898, 899) is unconstitutional, to-wit:

24 "And any alien woman or girl who shall be found an inmate of a house of prostitution or practicing prostitution, at any time within three years after she shall have entered the United States, shall be deemed to be unlawfully within the United States, and shall be deported as provided by Sections twenty and twenty-one of this act."

This Court has heretofore held and now holds that the Act of Congress above referred to gives to the Secretary of Commerce and Labor the authority to order the Deportation of Aliens, and that such Secretary is the sole Judge of the weight of the evidence in such cases. After he passes upon such evidence as he may deem proper to consider in the case, and makes findings, his action cannot be reviewed by the Court.

The question as to the constitutionality of the act or so much thereof as is quoted above, is not entirely clear to the Court in view of the fact that from all that appears the Petitioner was not objectionable at the time of coming to the United States. I am not prepared to say that the contention is entirely without merit.

In this case the warrant of deportation is based solely upon the clause of the Statute above referred to. The warrant does not state that the petitioner was brought into the United States for the purpose of prostitution, or that she was such prostitute when admitted. It merely finds that "the said alien is a prostitute and has been found practicing prostitution within three years of entry," and that said period has not elapsed. The warrant further states that she came to the United States about the first of September, 1908.

It was insisted upon the argument that even if the petitioner was guilty of the immoral practices charged, she was and is amenable to the laws of the State of Illinois, and not to any law of the United States.

The whole matter should have been threshed out in the State of Illinois, where the petitioner was found. However this may
25 be, this court must pass upon the questions presented in the case. The court holds:

1st. That the Secretary is the sole Judge of the testimony upon which he based the warrant of deportation.

2nd. That the Act of Congress under which he acted is a valid law and free from the objection urged against it.

The petition will be dismissed and the petitioner ordered, in pursuance of the Bond given to appear in this Court Saturday next, the 9th of April, at 10 A. M.

Indorsed: Case No. 3870. In the Matter of Ursulia Zakonaite. Opinion of court. Filed Apr. 2, 1910. W. W. Nall, Clerk.

And afterwards, to-wit: on the 9th day of April, A. D., 1910, the following further proceedings were had and appear of Record in said Cause, to-wit:

26 3870.

In the Matter of URSULIA ZAKONAITE.

Petition for Writ of Habeas Corpus.

This day comes Ursulia Zakonaite, the Petitioner herein, in obedience to an order entered in this Cause on April 4th, 1910 directing the said Petitioner to appear at and before this Court on April 9th, 1910, in compliance with her recognizance taken before Chase Morsey, a United States Commissioner, residing at St. Louis, Missouri, under an order of Court entered in said Cause on January 24th, 1910. And also appearing by Horace L. Dyer and Leander G. Pope, Esquires, her Attorneys.

And thereupon Horace L. Dyer in open Court withdraws as one of the Counsel for the Petitioner herein, and Henry B. Davis, Esquire, enters his appearance as one of the Counsel for the said Petitioner.

And thereupon the said Petitioner, by her attorneys, presents to the Court an Assignment of Errors and a Petition for Appeal to the United States Supreme Court from the Judgment entered herein. And upon motion of petitioner by her attorneys, in open Court, it is ordered that the petitioner, Ursulia Zakonaite, give a Supersedeas Bond in the sum of One Thousand ($1000.00) Dollars, said Bond to be approved by the Court. And thereupon the said Petitioner, Ursulia Zakonaite, presents to the Court such a Bond conditioned as required by Law, which said Bond is approved by the Court.

And thereupon the Court orders that the Assignment of Errors and Petition for Appeal be filed and that an Appeal be allowed Ursulia Zakonaite the petition- to the United States Supreme Court and that the said Bond be filed and made part of the record along with said Assignment of Errors and Petition for Appeal filed herein.

27 And it is further ordered that the Petitioner in this Cause be granted thirty (30) days from and after this date in which to file a Bill of Exceptions in said Cause.

Which said Petition for Appeal, Assignment of Errors, Bond, and Bill of Exceptions, are respectively in words and figures as follows, to-wit:

Petition for Appeal.

In the United States District Court Within and for the Eastern Division of the Eastern District of Missouri.

In re URSZULIA ZAKONAITE, Petitioner,
vs.
CASPAR J. WOLF, Jailer of the City of St. Louis.

Petition for Appeal.

The above named petitioner, Urszulia Zakonaite, conceives herself aggrieved by the order and Judgment made and entered in the above-entitled cause on this, the fourth day of April, 1910, wherein and whereby it is ordered and adjudged that she, the said Urszulia Zakonaite, be remanded to the custody of Casper J. Wolf, Jailor of the City of St. Louis, under the Warrant of Deportation set out in the return herein, and does hereby appeal from said order and judgment to the Supreme Court of the United States, for the reasons specified in the Assignment of Errors filed herein, and she prays that this appeal may be allowed, and that a transcript of the record, papers and proceedings upon which said order and Judgment was made, duly authenticated, may be sent to the Supreme Court of the United States, and prays that said appeal may be operated as a Supersedeas upon the petitioner giving a bond in such sum as
28 may be fixed by this Court, conditioned upon the prosecution of said appeal and her appearance in the said Supreme Court of the United States, to abide by whatever order and judgment may be entered therein.

URSZULIA ZAKONAITE.
By L. G. POPE AND
HY. B. DAVIS,
Her Attorneys.

Allowed April 9th, 1910,
DAVID P. DYER, *Judge.*

Indorsed: Case No. 3870. United States District Court, Eastern Division of the Eastern Judicial District of Missouri. In the Matter of Ursulia Zakonaite, Petitioner. Petition for Appeal. Filed Apr. 9, 1910. W. W. Nall, Clerk.

Assignment of Errors.

In the United States District Court within and for the Eastern Division of the Eastern District of Missouri.

In re URSZULIA ZAKONAITE, Petitioner,
vs.
CASPER J. WOLF, Jailer of the City of St. Louis.

Comes now Urszulia Zakonaite, by her Attorneys, and files the following Assignment of Errors:

29 (1). The Court erred in holding that the Petitioner was not entitled to introduce evidence in this cause for the reason that a finding of fact had been made by the Department of Commerce and Labor which was binding in this Court.

(2). The Court erred in not holding that Petitioner was held in violation of the Constitution of the United States, and that Section 3 of the Act of Congress of February 20, 1907, was not in violation of the Constitution of the United States.

(3). Because, upon the whole record, the Petitioner should have been discharged.

URSZULIA ZAKONAITE,
By L. G. POPE AND
HENRY S. DAVIS,
Attorneys for Petitioner.

Indorsed: Case No. 3870. United States District Court, Eastern Division of the Eastern Judicial District of Missouri. In the Matter of Ursulia Zakonaite, Petitioner. Assignment of Errors. Filed Apr. 9, 1910. W. W. Nall, Clerk.

Bond.

In the United States District Court within and for the Eastern Division of the Eastern District of Missouri.

In re URSZULIA ZAKONAITE, Petitioner,
vs.
CASPAR J. WOLFF, Jailor of the City of St. Louis.

Proceedings in Habeas Corpus.

30 Know all men by these presents: That we, Urszulia Zakonaite as Principal, and August Stelmakocz, as surety, are held and firmly bound unto the United States of America, to its use and to the use of any and all other parties who may be interested, in the full and just sum of One Thousand Dollars ($1000.00), to be paid to the United States of America, to which payment well and truly to be made, we bind ourselves, our heirs, executors and administrators, jointly and severally, by these presents:

Sealed with our seals, and dated this Ninth day of April, in the Year of Our Lord One Thousand Nine hundred and Ten.

Whereas, on the — day of January, 1910, at the November Term of the District Court of the United States within and for the Eastern Division of the Eastern District of Missouri, in a proceeding in Habeas Corpus, wherein Urszulia Zakonaite was petitioner, and directed to Caspar J. Wolf, Jailor of the City of St. Louis, Defendant, a Writ of Habeas Corpus was granted directing the said Caspar J. Wolf to produce the body of said Urszulia Zakonaite before the said Court on the — day of January, 1910, together with the cause of detention of said Urszulia Zakonaite; and

Whereas, upon the hearing of the cause of detention of said Urszulia Zakonaite by said Casper J. Wolf, on the Fourth day of April, 1910, it was ordered and adjudged that the said petitioner be remanded to the custody of said Casper J. Wolf; and

Whereas, upon the hearing of the cause of detention of said Urszulia Zakonaite by said Casper J. Wolf, on the — day of April, 1910, it was ordered and adjudged that the said petitioner be remanded to the said Casper J. Wolf; and

Whereas the said Urszulia Zakonaite has obtained an
31 Order granting an appeal from said order and Judgment to the Supreme Court of the United States to reverse the same, and a citation directed to said Casper J. Wolf citing and admonishing him to be and appear in the Supreme Court of the United States, at the City of Washington, in the District of Columbia, to the — Term, 1910, of the said United States Supreme Court:

Now, the condition of the above obligation is such That if said Urszulia Zakonaite will appear in person or by attorney in the Supreme Court of the United States on such day or days as may be appointed for the hearing of said case in said court, and prosecute the said appeal, and shall abide by and obey all orders made by the Supreme Court of the United States in said cause, and shall surrender herself to abide by the order and judgment appealed from, as said Court may direct, if the said Judgment and order against her shall be affirmed, and if she shall appear for trial in the District Court of the United States for the Eastern Division of the Eastern District of Missouri on such day or days as may be appointed for re-trial by said District Court, and abide by and obey all orders made by said Court, provided an order and judgment against her shall be reversed by the Supreme Court of the United States; then the above obligation shall be void; otherwise to remain in full force, virtue and effect.

her
URSZULIA X ZAKONAITE. [SEAL.]
mark
AUGUST STELMAKOWCZ. [SEAL.]
1026 *Lakeberg Ave., City.*

Approved,

DAVID P. DYER.
District Judge.

32 Indorsed: Case No. 3870. United States District Court, Eastern Division of the Eastern Judicial District of Missouri. In the Matter of Ursulia Zakonaite, Petitioner. Bond. Filed Apr. 9, 1910, W. W. Nall, Clerk.

Bill of Exceptions.

In the United States District Court within and for the Eastern Division of the Eastern District of Missouri.

URSZULIA ZAKONAITE, Petitioner,
vs.
CASPER J. WOLF, Jailer of the City of St. Louis, and JAMES R. DUNN, Immigration Inspector of the United States.

Habeas Corpus.

Be it remembered that heretofore to-wit: On the 12th day of March, 1910, the above case coming on to be heard upon the Petition, return and supplemental return, and reply thereto, the following proceedings were had, to-wit:

On behalf of the respondents, the Transcript of the Proceedings before the Secretary of Commerce and Labor was offered in evidence. Said transcript was in words and figures as follows:

33 *Postal Telegram.*

Night.

ST. LOUIS, MO., *Jan.* 4/10.

Immigration Bureau, Washington, D. C.:

Wadding (Provisions of warrant regulations having been complied with and evidence forwarded by mail, warrant of arrest by telegraph requested in case of alien Ursulia Zakonaite, Lithuanian, arrived steamship unknown within last three years, New York.

Preceptor (Prostitute at time of arrival or entered for purposes of prostitution).

DUNN.

Postal Telegraph Company.

Copy.

WASHINGTON, D. C., *Jan.* 5, 1910.

Immigration Service, St. Louis, Mo.:

Arrow (Arrest following named alien and bring before yourself for hearing, forwarding record of proceedings to Department.) Ursulia Zakonaite Preceptor (prostitute at time of arrival or entered for purposes of prostitution.)

BENJ. A. CABLE,
Act'g Sec'y.

Department of Commerce and Labor.

Urszulia Zakonaite, age 23, native of Russia, prov. Kovno, county Vilkomir, town Onikzty, race Lithuanian, sailed from Bremen, North German Lloyd Line, landed in New York on or about
34 December 1st, 1908. Destination East St. Louis, Ill. Resides now at 335 N. 5th Str., East St. Louis, Ill.

Was arrested in Russia for robbery and escaped there from Government authorities and came to the U. S. She would have come to this country about two years earlier but on account of her eyes. She had trac-oma and was treated for two years. She is now a prostitute, and when I went to her room to find out when did she come to this country, she asked me to go to bed with her.

EDW. C. ZULLEY.

OFFICE OF INSPECTOR IN CHARGE,
ST. LOUIS, MO., *Jan.* 7, 1910.

Hearing in the case of Ursulia Zakonaite, alias Mary Jukas.

Conducted by James R. Dunn, Inspector in Charge.
S. L. Whitfield, Stenographer.
E. C. Zulley, Interpreter.
Sworn.

Departmental telegraphic warrant, dated Jan. 5, 1910, was read and explained to said alien.

Q. What is your name?
A. Ursulia Zakonaite.
Q. Have you any other name?
A. No.
Q. How old are you?
A. 24.
Q. Do you understand that you are charged in this warrant with being in the country unlawfully because you are a prostitute?
A. Yes.
Q. Do you wish to be represented by counsel in this hearing?
A. No, sir.
Q. Do you waive all rights of counsel and are you now ready to proceed with the hearing?
A. Yes, sir.
Q. Where were you born?
A. Onikzty, County Vilkomir, Province Kovno, Russia.
35 Q. Of what race are you?
A. Lithuanian.
Q. Have you ever been married?
A. No.
Q. How and when did you come to America?
A. I was smuggled across the border from Russia into Germany by a Jew who makes a business of smuggling people and then I went to Silzitost Prussen, Germany and there I bought a ticket to East St. Louis.

Q. How much did you pay for your ticket?
A. $85.00, about.
Q. Where did you get that money?
A. My father gave it to me.
Q. Did you come from Russia or Germany with any of your friends or countrymen?
A. Some of my nationality but I did not know them.
Q. Why did your father send you away from Russia?
A. Because he had such a large family.
Q. Is it true that you were arrested in Russia for stealing or some other crime?
A. No.
Q. Is it true that you were charged with stealing or some other crime before you left the old country?
A. I do not know, probably the police were looking for me.
Q. Why do you say that "probably the police were looking for you"?
A. There were rumours around that the police were after me.
Q. And did your father hurry you away on that account?
A. I do not know whether he was hurrying or not, he took me to the Jew and arranged to smuggle me out of the country.
Q. Did you try to come to America before that time?
A. In May, 1908, I went to the doctor and he examined my eyes and he said they would not pass me and gave me some medicine with which I treated my eyes.
Q. Did he tell you you had trachoma?
A. No, but he said I could not pass.
Q. When was it that you started for America?
A. About Aug., 1908.
Q. Where did you sail from?
A. Hamburg.
Q. On what vessel?
A. I don't know the name, it was Hamburg-American Line.
36 Q. When you bought your ticket was your own name put on it?
A. Yes.
Q. Where did you land?
A. New York.
Q. About when did you land?
A. I cannot tell the date I landed in New York, but I came directly to East St. Louis after landing, and I arrived 5 or 6 days after "All Saints Day", 1908.
Q. How long were you detained at Ellis Island?
A. About 24 hours.
Q. Whose name did you give as your destination?
A. My friend John Kassely, 506 N. 6th St., East St. Louis.
Q. How is he your friend?
A. He came from my home town several years ago.
Q. How much money did you have when you arrived at Ellis Island?

A. $6.00.

Q. Did you tell the doctors at Ellis Island about having had trouble with your eyes?

A. No, they examined my eyes but they did not ask me anything about previous trouble or treatment.

Q. Weren't you detained there at all for more money or for any other reason?

A. No.

Q. Where you traveling with any other person just at that time?

A. No.

Q. After you came to East St. Louis where did you go to live?

A. I went to John Kassely's house first.

Q. When did you take a room by yourself?

A. Shortly after he got married.

Q. Was John Kassely a single man at the time you came to him?

A. Yes.

Q. When was he married?

A. Shortly after Christmas, 1908.

Q. Did you live with him until he was married?

A. Yes.

Q. Where have you been living since?

A. Over Yonekey's saloon, 6th & Ohio Ave., and I have had a room at several different places.

Q. Did you room with any other woman?

A. No, alone.

Q. Do you practice prostitution?

A. I do not take everybody, I do not have niggers, but mostly men of my own race.

37 Q. Do you take men to your room mostly or do you go to their rooming houses with them?

A. They come to my room and some times I go out with them.

Q. Do you pick them up on the street or do you meet them in other places?

A. I never bum on the streets, if anybody wants — they come to the house and find me there.

Q. Have you been recently arrested in East St. Louis?

A. No.

Q. Have you been charged with stealing a ring or other property there lately?

A. Yes, I heard from several parties that I was charged with stealing a ring.

Q. Do you know that the police are now looking for you there?

A. No.

Q. Did you steal a ring or other property in E. St. Louis?

A. No.

Q. You admit, do you, that you have been practicing prostitution within three years after your arrival?

A. Yes, I have been having intercourse with different men, if you call that prostitution, I admit it.

Q. Can you give any reason or show any cause why you should not be deported?

A. I do not know of any reason.
Q. Have you any baggage or personal effects in East St. Louis?
A. I have a trunk, some pillows and clothes.
Q. Is your trunk locked?
A. No.
Q. Are your things packed in it?
A. No.
Q. Have you any steamship cards or papers in your trunk?
A. No.
Q. Can you read and write?
A. No.

(Sgd.) URSULIA ZAKONAITE. her x mark

Witness:
(Sgd.) EDWARD C. ZULLEY.

Subscribed and sworn to before me this 7th day of Jan., 1910.
J. R. DUNN,
Immigrant Inspector.

38 ST. LOUIS, MO., *January* 8, 1910.

In the case of URSULIA ZAKONAITE.

Sworn Statement of Tony Laskanskis Before James R. Dunn, Inspector in Charge.

My name is Tony Laskanskis. I am 30 years of age and a native of Russia Lithuanian. I came from Pakarkle, Onikzty Russia, about five years ago, and have been living in East St. Louis almost all of the time since then. In Russia I knew Ursulia Zakonaite who lived a half mile away from my home, and when she came to America in the autumn of 1908, she came directly where John Kassely and I were living. Some of our countrymen who live in East St. Louis received letters from Russia telling about Ursulia Zakonaite having been arrested for stealing jewelry in the old country. Afterwards two Lithuanians came over from Russia to East St. Louis, about three months ago, and they told me this woman was arrested for stealing a lot of jewelry, that pending trial she was released on $2000.00 bail and then she ran away to America. Afterwards she was tried by default and sentenced to six months' imprisonment.

The men who gave me this information are Ignosas Sabulis, of 443 Collinsville Ave., East St. Louis and Kastro Kavalinnas, of 526 N. 5th St. (2nd flat) East St. Louis.

(Signed) ANTANAS LASKANSKIS.

Sworn and subscribed to before me this 8th day of January, 1910.
JAMES R. DUNN,
Inspector in Charge.

39 BUREAU OF IMMIGRATION AND NATURALIZATION,
WASHINGTON, *January* 18, 1910.

No. 52742/52.

Inspector in Charge, Immigration Service, St. Louis, Mo.

SIR: The Department has become satisfied after an examination of the record of hearing in the case of Ursulia Zakonaite that this alien is in the United States in violation of law, and has issued warrant for her deportation to the Commissioner of Immigration at New York.

You are instructed to cause this woman to be taken into custody and conveyed to New York, N. Y., for deportation, the expenses, both incidental and extraordinary, of such conveyance, including if necessary the services of an attendant at a nominal compensation of one dollar and expenses, being authorized payable from the appropriation "Expenses of Regulating Immigration, 1910".

Respectfully,

(Signed) DAN'L J. KEEFE,
Commissioner-General.

Approved:

(Signed) BENJ. S. CABLE,
Assistant Secretary.

C. B. D.

United States of America,
Department of Commerce and Labor,
Washington.

No. 52742/52.

No. 1931.

To William Williams, Commissioner of Immigration, Ellis Island, N. Y. H.:

Whereas, from proofs submitted to me, after due hearing
40 before Inspector in Charge James R. Dunn, held at St. Louis, Mo., I have become satisfied that Ursulia Zakonaite alien who landed at the port of New York, N. Y., on or about the 1st day of Sept. 1908 is in this country in violation of the Act of Congress approved February 20, 1907, to wit:

That the said alien is a prostitute and has been found practicing prostitution within three years of entry; and whereas, the period of three years after landing has not elapsed:

I, Benj. S. Cable, Acting Secretary of Commerce and Labor, by virtue of the power and authority vested in me by the laws of the United States, do hereby command you to return the said alien to Russia the country whence she came, at the expense of the steamship company importing her, if possible, the alien to be given a further examination upon delivery at New York with a view to verify-

ing landing. If landing cannot be verified authority is hereby granted for the purchase of transportation at lowest schedule st-erage rates payable from the appropriation "Expenses of Regulating Immigration, 1910".

For so doing, this shall be your sufficient warrant.

Witness my hand and seal this 18th day of January 1910.

BENJ. S. CABLE,
Acting Secretary of Commerce and Labor.

Department of Commerce and Labor,
Immigration Service.
Office of Inspector in Charge,
1305 Chemical Building,

ST. LOUIS, MO., *January* 31, 1910.

Mr. Horace L. Dyer, Attorney at Law, St. Louis, Mo.

SIR: Referring to your letter of the 24th instant, I beg to
41 inform you that a copy thereof was transmitted to the Commissioner-General of Immigration, together with a transcript of the proceedings had before the Honorable, D. P. Dyer, Judge of the District Court for this jurisdiction, and I am today in receipt of a letter of instructions from the Honorable, the Secretary of Commerce and Labor from which I quote as follows:

"There is no disposition upon the Department's part to prevent as complete a hearing as may be reasonably requested. As the honorable judge of the district court in your city has uniformly ruled that in matters of this kind the jurisdiction of the Department is exclusive, the purport and intent of his order in the present instance is not clearly understood. If he intends (as probably he does) to express the view that the Department might with propriety accept and consider further evidence, you are hereby authorized, after satisfying yourself, through the United States Attorney, that such is the judge's wish, to take in your office the testimony of such further witnesses as alien's counsel may promptly present. The record so supplemented should be forwarded on or before February 3, 1910."

After consultation with the United States Attorney and learning through him the court's intentions and desires in the premises, you are hereby informed that if you desire to avail yourself of the proffer of the Department I will be glad to have you present your witnesses before me at this office at 10 A. M. on Tuesday, February first, for the purposes indicated. It is understood that your purpose, as the attorney for Urzula Zakonaite, is similar to that of this office and Department, viz: to develope the exact facts and to this end all of the witnesses presented will be examined and be subject to cross examination either on your part or on the part of the government, full record then to be transmitted to the Secretary.

Please acknowledge receipt and inform me of your views in the premises.

Respectfully,

J. R. DUNN,
Inspector in Charge.

42 R. O. D.

No. 52742/52.

DEPARTMENT OF COMMERCE AND LABOR.
WASHINGTON, *January 24th*, 1910.

St. Louis, Mo.

I hereby certify that the annexed is a true copy of the original warrant of deportation issued to the Commissioner of Immigration, Ellis Island, N. Y. H., for the alien Ursulia Zakonaite, on file in the Bureau of Immigration and Naturalization.

DAN'L J. KEEFE,
Commissioner-General of Immigration.
(Official Title.)

OFFICE OF THE SECRETARY.

I hereby certify that Dan'l J. Keefe who signed the foregoing certificate, is now, and was at the time of signing, Commissioner-General of Immigration and that full faith and credit should be given his certification as such.

In witness whereof, I have hereunto subscribed my name, and caused the seal of the Department of Commerce and Labor to be affixed this 24th day of January, one thousand nine hundred and ten.

BENJ. S. CABLE.
Assistant Secretary of Commerce and Labor.

DEPARTMENT OF COMMERCE AND LABOR,
BUREAU OF IMMIGRATION AND NATURALIZATION,
WASHINGTON, *January* 18, 1910.

In answering refer to No. 52742/52.

Inspector in Charge, Immigration Service, St. Louis, Mo.

SIR: The Department has become satisfied after an ex-
43 amination of the record of hearing in the case of Ursulia Zakonaite that this alien is in the United States in violation of law, and has issued warrant for her deportation to the Commissioner of Immigration at New York.

You are instructed to cause this woman to be taken into custody and conveyed to New York, N. Y., for deportation, the expenses, both incidental and extraordinary, of such conveyance, including if necessary the services of an attendant at a nominal compensation of $1.00 and expenses, being authorized, payable from the appropriation "Expenses of Regulating Immigration, 1910."

Respectfully,
DAN'L J. KEEFE,
Commissioner-General.

Approved:
BENJ. S. CABLE,
Assistant Secretary.

C. B. D.

Form 505.

Verification of Landing.

DEPARTMENT OF COMMERCE AND LABOR,
IMMIGRATION SERVICE,
PORT OF NEW YORK, *January* 17, 1910.

77356-53155—S.

Immigrant Inspector-in-Charge, St. Louis, Mo.

SIR: In response to your request dated January 15, 1910, in regard to verifying the landing of the alien Ursulia Zakonaite, or Ursula Cadkawevicz, and so forth you are informed that the records at this port disclose the following information, viz:

Name of alien, Czekanowicz, Urzala, Hamburg—steerage.
44 Arrived per S. S. "Amerika," Ham-Amer. Line, September 27, 1908, manifest group 2, No. 30, Age, 21, Sex, F; Married, S; Able to read and write, yes; Citizen of Russia; Race, Lithuanian; Occupation, servant; Destination, East St. Louis, Ill.; To cousin, Jonas Kawspidus, 501 Illinois Ave.; By whom passage paid, self; Money brought, $3.00; Whether in U. S. before, No; Condition of health, Good; Height, 5 ft. 2″; Color of hair, brown; Color of eyes, grey; Last residence and Place of birth, Anikst, Russia; Examined by Inspector Mitchell; Admitted* primary inspection.

Respectfully,
(Signed) WM. WILLIAMS,
Commissioner.

K.

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* On primary inspection, called for by relative or admitted by board.

ST. LOUIS, MO., *January* 8, 1910.

In the Case of URSULIA ZAKONAITE.

Sworn Statement of Tony Laskanskis before James R. Dunn, Inspector in Charge.

My name is Tony Laskanskis. I am 30 years of age and a native of Russia Lithuanian. I came from Pakarkle, Onikzty Russia, about five years ago, and have been living in East St. Louis almost all of the time since then. In Russia I knew Ursulia Zakonaite who lived a half mile away from my home, and when she came to America in the autumn of 1908, she came directly where John Kassely and I were living. Some of our countrymen who live in East St. Louis received letters from Russia telling about Ursulia Zakonaite having been arrested for stealing jewelry in the old country. Afterwards two Lithuanians came over from Russia to East St. Louis, about three months ago, and they told me that

this woman was arrested for stealing a lot of jewelry, that
45 pending trial she was released on $2000.00 bail and then she ran away to America. Afterwards she was tried by default and sentenced to six months' imprisonment.

The man who gave me this information are Ignosas Sabulis of 443 Collinsville Ave., East St. Louis and Kastro Kavalinnas, of 526 N. 5th St. (2nd flat) East St. Louis.

(Signed) ANTANAS LASKANSKIS.

Sworn and subscribed to before me this 8th day of January, 1910.

——— ———,
Inspector in Charge.

46 *Warrant—Arrest of Alien.*

UNITED STATES OF AMERICA,
Department of Commerce and Labor, Washington.

No. 52742/52.

To James R. Dunn, Inspector in Charge, St. Louis, Mo., or to any Immigrant Inspector in the Service of the United States:

Whereas, from evidence submitted to me, it appears that Ursulia Zakonaite, alien who landed at the port of New York within a period of three years has been found in the United States in violation of the Act of Congress approved February 20, 1907, to wit:

That the said — is a prostitute; that she was such at the time of entry; that she entered the United States for the purpose of prostitution or other immoral purpose and has been found an inmate of a house of prostitution and practicing prostitution within three years after entry.

I, Benj. S. Cable, Acting Secretary of Commerce and Labor, by virtue of the power and authority vested in me by the laws of the United States, do hereby command you to take into custody the said alien and grant her a hearing to enable her to show cause why she should not be deported in conformity with law. The expenses of execution and detention are authorized, payable from the appropriation "Expenses of Regulating Immigration 1910." Pending disposition of her case the alien may be released from custody upon furnishing a satisfactory bond in the sum of one thousand dollars, provided that sum is deemed sufficient to insure her appearance at the proper time; otherwise appropriate recommendation should be made for an increase in the amount of bond.

For so doing this shall be your sufficient warrant.

Witness my hand and seal this 5th day of January, 1910.

(Signed) BENJ. S. CABLE,
Acting Secretary of Commerce and Labor.

J. S. B.

47 OFFICE OF INSPECTOR IN CHARGE.
ST. LOUIS, MO., *Jan.* 22/10.

In re URSULA ZAKONAITE, alias URZALA CZOKANOWICZ.

Statement of Joseph Tillman, Taken by James R. Dunn, Inspector in Charge.

My name is Joseph Tillman, I am 25 years of age and a native of Russia, Lithuanian race. I came to the United States about four years ago and have lived in East St. Louis during the past three years. I am employed at the Swift Packing House during the day time from seven o'clock in the morning until closing time in the afternoon. Sometimes we are out early in the afternoon and other times I work as late as 5:30 P. M. I am always free evenings and parts of many afternoons. I am acquainted with the woman known as Ursula Zakonaite who has lived in East St. Louis about a year and a half to my knowledge. She is commonly known as a prostitute and roper and I have frequently seen her with different men on the streets under such circumstances as to indicate that she is a woman of bad character and a common prostitute. I live at a distance of two or three blocks from her present residence and being around in this section of the town in the evenings and during my spare time I have good opportunity of knowing the character and reputation of people who are conspicuous on the streets. I have been told by various men who associated with Ursula Zakonaite that they had had immoral intercourse with her and I know from the statements of others that she is a common woman.

JOSEPH TILLMAN.

Subscribed and sworn to before me at St. Louis, Mo., Jan. 22/10.

——— ———,
Immigrant Inspector.

48 OFFICE OF INS-ECTOR IN CHARGE,
ST. LOUIS, MO., 1/22/10.

In re URSULA ZAKONAITE, alias URZALA CZOKANOWICZ.

Statement of James Solomon, Taken by James R. Dunn, Inspector in Charge.

Alien duly sworn:

My name is James Solomon, I am of the Lithuanian race, 22 years of age and a native of Russia. I came to the United States in 1906 and have lived in E. St. Louis ever since that year. I am a soliciting salesman for a grocery store and have good opportunity to know the character of people residing in the sections of the city that I visit in connection with my business and otherwise. I know the woman who calls herself Ursula Zakonaite and I have known her for about a year and a half last past. She has occupied a room at several

different addresses during the time that I have known her and I have frequently seen her with different men, with whom she appeared to be associating in a lewd manner. She conducts herself on the street like a common prostitute and I have often seen her roping or soliciting men and taking them with her. She has the reputation of being a prostitute and I have never known her as having any other occupation. Several different men who have talked with me about Ursula Zazonaite have told me that they had visited her and had intercourse with her just like any common prostitute.

JAMES SOLOMON.

Subscribed and sworn to before me at St. Louis, Mo., 1/22/10.

———.

Immigrant Inspector.

49 EAST ST. LOUIS, ILL., *February* 3, 1910.

In re MARY CUKAS, alias URSULA.

Statement of John A. Gadeikis, Taken and Recorded by George C. Murrell, Immigrant Inspector, Assisted by E. C. Zulley, Interpreter.

Sworn:

My name is John Gadeikis. I reside at 1505 Baugh Ave., E. St. Louis, Ill. I am pastor of the Lithuanian Roman Catholic church of the Immaculate Conception, E. St. Louis. I have known Mary Cukas, alias Ursula Zakonaite for some time who is by reputation known as a public whore. I was informed by the owner, Sam Yociss, of the dancing hall, 537 Collinsville avenue, that Ursula Zakonaite did attend dances in said hall and that she conducted herself in manners and actions that would indicate that she was a whore. The first of January, 1910, there was a dance given by Sam Kairis and his partners, who are known to me as men of bad reputation, that on said night this girl was present, and at a late hour she left the hall with Sam Kairis and did not return. This man Sam Kairis has a room over the dancing hall. It is customary among Lithuanians to serve intoxicating drinks on all the occasions, and they were served on that night. John Cassly told me that she stole his wife's ring and that she is also a whore. The place 443 Collinsville avenue has been known to me for the last year as a nest of prostitutes. Judging from her appearance, her actions, the places she visits, the company she keeps, and from reliable information, I have received from my devoted parishoners, I have no hesitancy in saying that she is a prostitute.

On the 23d of January, 1910, there was a parish meeting held at the hall above mentioned by the Lithuanians, and this particular case was discussed and also a previous case where a Lithuanian prostitute was deported, and in that meeting it was agreed that no matter what kind of a character a Lithuanian was, how bad, it was their duty to stand by them and defend them.

50 I can consistently say that a part of the gang that is trying to defend this woman, are doing so because she is one of our own race, and the majority of them are doing so because they practice prostitution and are afraid if this one is deported that more of them who are guilty will be deported on the same charge.

I also state that James Solomon is known to me for the past tow years as an honest, trustworthy, sober young man, one of the best members of my parish.

The government would be able to get some very important witnesses in this case if it were not for the fact that their lives had been threatened, as well as that of interpreter Edw. C. Zulley. The threat was made by the gang. It is frequently mentioned among members of this gang that there will be no place left for Solomon, Interpreter Zulley and myself in East St. Louis, Illinois.

(Signed) J. A. GADEIKIS.

Subscribed and sworn to before me at East St. Louis, Illinois, this 3d day of February, 1910.

GEORGE C. MURRELL,
Immigrant Inspector.

OFFICE OF INSPECTOR IN CHARGE,
SAINT LOUIS, MISSOURI, *February* 1, 1910.

In the Case of URZULA ZAKONAITE.

Additional Testimony Offered by Alien's Counsel, H. L. Dyer and L. G. Pope.

This is a hearing authorized by letter addressed to the Inspector in Charge, Immigration Service, Saint Louis, Missouri, bearing Department number 52742/52, dated January 27, 1910, signed by Benj. S. Cable, Acting Secretary, for the purpose of taking further testimony for presentation to the Department.

Present: James R. Dunn, Inspector in Charge; Horace L. Dyer, Attorney for Alien; L. G. Pope, Associate counsel for alien; Edw. C. Zulley, Interpreter for government; Agnes Raski, Interpreter for alien; Charles A. Lich, Stenographer.

URZULA ZAKONAITE, called as a witness in her own behalf,
51 being first duly sworn testified as follows:

By Mr. DYER:

Q. State your name?

A. Urzula Zakonaite.

Q. You are the party mentioned in these proceedings before Mr. James R. Dunn, in the matter of the deportation of yourself upon a warrant issued by the Department that you are in this country unlawfully for violation of Section 3 of the Act of February 20, 1907, in that you are practicing prostitution in the City of East

Saint Louis, Illinois within three years after you arrived in this country, are you?

A. Yes.

Q. Were you brought before Mr. Dunn on January 7, 1910, for an examination and were questions asked you at that time by Mr. Dunn through Mr. Zulley?

A. Yes, sir.

Q. At the time you were brought before Mr. Dunn, do you remember this question being asked, "Do you practice prostitution?"

A. Yes, sir, I remember.

Q. To that question did you answer: "I do not take everybody. I do not have niggers but mostly men of my own race?"

A. No.

Q. What did you say at that time in answer to the question, "Do you practice prostitution?"

A. I just answered this way, that if my acquaintances come to my house, while, of course I would not chase them out, I sat down and walked with them but I never go with them and do anything.

Q. Was this question asked: "Do you take men to your room mostly or do you go to their rooming houses with them?" Do you remember that question being asked you?

A. I do not remember that question being asked me.

Q. Did you ever have immoral relations with any men in the rooms where you lived?

A. No, I never did.

Q. Did you ever go to the rooms of any men and have immoral relations with them in their rooms?

A. I never went to the fellows' rooms and I never had any immoral relations.

Q. Did you at any time solicit or pick up men on the streets of East Saint Louis and take them to your room or go to any rooming house with any men for immoral purposes?

A. No, sir, I never caught anybody on the street or picked
52 up anybody and nobody picked me up on the street.

Q. Do you remember this question being asked you at that time: "Do you admit, do you, that you have been practicing prostitution within three years after your arrival?"

A. Yes.

Q. Did you make this answer? "Yes, I have been having intercourse with different men. If you call that prostitution I admit it?"

A. No, sir, I did not admit it.

Q. What answer did you make to that question at the time it was asked you?

A. I answered that I did not practice prostitution.

Q. At the time that this question was asked you, "You admit, do you, that you have been practising prostitution within three years after your arrival?" What answer did you then make to it?

A. How could I say I do, because I do not practice prostitution. I did not practice prostitution since I came to this country. I just said that I did not practice prostitution.

Q. When you first came to East St. Louis to whose house did you go?

A. Lewkowski's.

Q. Where was that?

A. Fifth St.

Q. Who took you to that house?

A. I just showed my address to the driver at the depot and he took me down to the house.

Q. What kind of a driver?

A. Just a wagon.

Q. Why did you go to Leskowski's house?

A. Just because Mrs. Leskowski, alias Cassly, wrote letters to me while I was in the old country and I had their address and I went there.

Q. How long did you live at Leskowski's house?

A. About six months or more. I do not remember quite.

Q. Do you know John Cassly?

A. Yes, I knew him in the old country. He was working for my father, employed as a servant.

Q. Was he living at Leskowski's house in East St. Louis when you went there?

A. Yes, sir, Lewskowski keeps a boarding house and he was one of the boarders.

53 Q. At the time that you were living at Leskowski's house in E. St. Louis, did you have any immoral relations with John Cassly?

A. No, I never had. I even did not talk to him in a kind way.

Q. Were you a bridesmaid at John Cassly's wedding?

A. Yes, sir.

Q. In relation to the time now of John Cassly's wedding—when did you move away from Leskowski's house?

A. After the wedding I moved out because they rented one room only for themselves with the children and there was no place to stay with them.

Q. Who rented one room?

A. Leskowskis.

Q. While you were living in Leskowski's house, who did you room with?

A. We were sleeping in the same house where Leskowski and his wife and children were sleeping.

Q. Where did you move from Leskowski's house?

A. I moved to Junickey's.

Q. Where was that?

A. On 6th St., he is a saloon keeper on Ohio and 6th Sts.

Q. Did you room with anyone there, and if so, who?

A. Junickey's sister was down there and I used to room with her and her brothers in the other room, and, after she got married I moved from that place.

Q. How long did you live at Junickey's?

A. Two months.

Q. Were you a bridesmaid for Junickey when she was married?
A. Yes, sir.
Q. Where did you move from Junickey's?
A. On Collinsville Ave.
Q. What place?
A. Kavaluna's Place over Borie's Saloon, 443 Collinsville Avenue.
Q. Who did you room with there, if anyone?
A. Kavaluna and his wife and two roomers and myself; we had two rooms there.
Q. While you were at that place, did you have any immoral relations with any men—anybody?
A. No, sir.
Q. How long did you live on Collinsville avenue?
A. About three months.
Q. Why did you leave there?
A. Because it was summer and that house had small win-
54 dows and it was too warm to sleep in there.
Q. Where did you move from that place?
A. Grasie's Place on 5th St.
Q. Where is Grasie's?
A. On 5th St.
Q. What number on 5th St.?
A. 326.
Q. How long did you live there?
A. About 7 months or so, I cannot tell—probably less.
Q. Were you living there at the time you were arrested?
A. Yes.
Q. Do you know a man named James Solomon?
A. Yes, I know him; he works in a butcher shop where I used to go.
Q. How long have you known him?
A. I cannot tell.
Q. Were you friendly with him?
A. Well, I just know him, that is all. I never was friendly with him or never talked to him.
Q. Did you ever go out to any places of amusement with him or to parties?
A. No, sir.
Q. Do you know Joseph Tillman?
A. Yes, sir.
Q. How long have you known him?
A. I knew him in the old country and before I left for the United States and after I arrived here, on the first day of my arrival he came to my house.
Q. Is this the man who wanted to marry you?
A. Yes, sir.
Q. You say he wanted to marry you—what did he say in regard to wanting to marry you—what did he tell you in regard to that?
A. He did not say anything and he did not do anything because he was not ready to be married.

Q. Did you go to different places with him and visit different people there while you were living in East St. Louis?

A. I did not go to any place but only he used to come to my house shortly after I came from the old country.

Q. How often would he come to visit you at your house?

A. I cannot tell. Sometimes once a week and sometimes twice a week.

Q. Were you fond of him?

A. How can I tell, because he was one of my countrymen and so I used to talk with him.

Q. While visiting you at your rooms, did you ever have any immoral relations with him?

A. No, sir.

55 Q. Has there been any trouble or feeling between you and Joseph Tillman?

A. Never was any trouble.

Q. Do you know Mr. Zulley, the gentlemen here, the interpreter: Did you ever see him before?

A. Yes, sir. I know him. I used to see him while he was working for S. J. Radovicz.

Q. Did you see Mr. Zulley a few days before January 6, 1910, or just prior to your arrest?

A. Yes, sure, he used to come. He was down there about four evenings.

Q. Where?

A. Where I was boarding. He used to tell me that my sister was coming from the old country and so on, that there was a telegram and things like that.

Q. How many times, just prior to your arrest, did you see Mr. Zulley at your room?

A. I think about four evenings.

Q. Will you tell us what was said and done the four evenings that Mr. Zulley was there?

A. I do not remember any more. I only remember that he told me that my sister is coming from the old country and that he had a telegram. I do not remember the rest.

Q. Was that the only conversation that you had with Mr. Zulley and the only talks you had with Mr. Zulley all those four evenings in regard to your sister?

A. I cannot remember.

(Interpreter Zulley calls attention that Agnes Raski made suggestion to the witness "about proposal of marriage".)

Mr. DUNN, addressing Agnes Raski: I want you to understand that I allow Mr. Dyer and Mr. Pope a great deal of latitude: I allow them to ask leading questions: I allow them to put questions in a good many ways, and shall continue to do it, but you have no province in this hearing whatever except as a check upon what is considered possible improper interpretation on the part of Mr. Zulley. You are employed by Mr. Dyer, to be sure, but you have no right in his behalf or in behalf of his client, nor in behalf of anybody, to put any question to this woman or to suggest any question or any

answer that is not called for by the questions of counsel or my questions. There was not one word said in English about
56 asking any question of "marriage" and you had no right to interpolate any question of that kind.

Mr. DYER:

Q. Do you remember whether or not Mr. Zulley in any of his conversations with you mentioned the name of Joseph Tillman?

A. No, sir, never mentioned it.

Q. How long was Mr. Zulley in the house on these different calls—about how long?

A. I did not look at the watch how long he was down there.

Q. Can you approximate the time?

A. I could not tell. Sometimes he was there about nine and stepped out at ten and sometimes he came earlier. I do not know how long he was there.

Q. Did you do any work while you were living in East St. Louis?

A. After I arrived from the old country I worked for Armour and Company and afterward for Swift and Company.

Q. How long after you arrived in East St. Louis before you went to work for Armour & Company?

A. Probably a month or less.

Q. From what hours to what hours during the day would you work while you were at Armour's?

A. I used to go down at 7 in the morning and some times I used to work from six and worked until ten in the evening but it was different times. Sometimes I worked fourteen and sometimes thirteen hours and less.

Mr. DUNN:

Q. Were you working by the day or hour or piece work?

A. By the hour, ten cents per hour.

Q. What kind of work did you do?

A. I worked in the sausage room.

Mr. DYER:

Q. After you left the sausage room what department did you go in?

A. Then I went to work for Swift and Company in the trimming room on piece work.

Q. How long did you work at Armour's before you went over to Swift's?

A. I cannot tell whether I worked four months or less.

Q. How much were you making on an average while you were working at Armour's by the week?

A. Whenever I worked overtime I made about fifteen dollars for two weeks and sometimes, of course, less when we did not work overtime.

57 Q. How long was it after you quit work for Armour before you went to work for Swift?

A. Less than one week.

Q. Then how long did you work for Swift?
A. Until I was arrested.
Q. What department did you work in at Swift's?
A. I worked in the trimming room.
Q. How long during the day time would you work, while you were working at Swift's?
A. According to the work: sometimes I worked eight hours and sometimes ten.
Q. How much would you make at Swift's on an average, a week?
A. Sometimes I got $15 and sometimes $17 and sometimes $10 every two weeks.
Q. How much did it cost you for a room to live?
A. I never paid more than two or dollar and a half.
Q. For how long?
A. For one month.
Q. How much do you have to pay for your food?
A. I used to spend two dollars for two weeks and sometimes I used to spend more and sometimes I would spend less.

Cross-examination by JAMES R. DUNN:

To AGNES RASKI:

Q. Have you any criticism to make of the interpretation as recorded here so far?
A. No, sir.

To URZULA ZAKONAITE:

Q. The petition for a writ of habeas corpus in your behalf — filed by your attorney, Mr. Dyer, in which you are quoted as stating, "You are informed and believe that the statements translated by the interpreter, when I examined you in this office on January 7th, were so translated by the interpreter as to misrepresent the real and true answers made by you in your own language?" Now, from whom did you obtain that information?
A. I was never informed of it.
Q. Did you ever tell anybody that you believed that the interpreter had misquoted you or given false interpretations of your statements?
A. I did not know how you talked and I did not understand that and I never talked to anybody in regard to this matter.
58 Q. Did you ever tell anybody that you believed that you had not had a fair examination at my hands?
A. No, I did not say to anybody. I did not understand what it was.
Q. Did you ever tell anybody that you believed that when I examined you through Mr. Zulley acting as interpreter he had not given your answers correctly?
A. I do not know. I did not understand how he interpreted. I never spoke with anybody in regard to this.
Q. Do you remember when you were brought here and when I examined you on the 7th of January?
A. Yes.

Q. Do you remember that I had the warrant of arrest read and explained to you?

A. I did not see the warrant and I did not know what it was.

Q. You remember that I handed it to Mr. Zulley and that he read it to you, don't you?

A. I do not remember.

Q. Do you remember that I then told you that you were charged with being unlawfully in the country on account of your being a prostitute within three years after landing?

A. Whatever you said to me I heard that but how can I remember now?

Q. Try to remember now all you can about what occurred on that day. Do you remember that I commenced by asking you your name, and you said it was Urzula Zakonaite?

A. Yes, sir.

Q. You remember that I asked you if you had any other name and you said "No"?

A. I answered, No.

Q. Do you remember I asked you how old you were and you answered "24"?

A. Yes.

Q. Do you remember I said, "Do you understand that you are charged in this warrant with being in the country unlawfully because you are a prostitute" and you answered, "Yes"?

A. Yes, sir.

Q. Do you remember I asked you, "Do you wish to be represented by counsel in this hearing" and you answered, "No, sir"?

A. You asked me whether I wanted a lawyer or just only leave it to the city authorities and I said I did not know anything about it.

Q. To whom do you refer by the phrase "City authorities"?

59 A. I do not know anything about it; that is what Mr. Zulley asked me.

Q. You remember that I then asked "Do you waive all rights of counsel and are you now ready to proceed with the hearing?" and you said, "Yes, sir"?

A. I just remember that you asked me whether I wanted a lawyer and the rest I do not remember what you asked.

Q. Do you remember that when I asked you these two questions I took pains to have the interpreter explain to you just what it means, that you had a right to employ a lawyer to defend you if you wanted one?

A. You did not ask me in regard to that. You did not explain to me. I remember that you asked me if I wanted a lawyer. I do not remember what else you said.

AGNES RASKI: (Alien stated also that she was informed that if a lawyer was hired it would cost much money.)

Interpreter EDW. C. ZULLEY: (Alien asked me in regard to whether they were going to keep her in jail and she was told that she would be let out of jail in a short time and I also told her that she should take a lawyer.)

Mr. DUNN:

Q. Do you remember in my first examination of you I asked, "Do you practice prostitution" and that you said, "I do not take everybody, I do not have niggers but mostly men of my own race"?

A. I did not answer that way, I just said that anybody who comes down to my house, I sit there and talk with them but I never run the streets or anything.

Q. Don't you remember that when you answered that question which we have just quoted to you—that when you answered it you laughed and smiled?

A. How can I laugh? I did not laugh at that time.

Q. Do you remember that in the same statement you were asked, "You admit, do you, that you have been practicing prostitution within three years after your arrival?"

—. Yes.

Q. Do you remember that you answered that question by
60 saying, "Yes, I have been having intercourse with different men, if you call that prostitution, I admit it?

A. I did not say that.

Redirect examination by HORACE L. DYER:

Q. Do you remember the day that you were brought over to Mr. Dunn's office, in this other room and signed and swore to a paper?

A. Yes, sir.

Q. Before you signed that paper, were there any questions asked you by me?

A. Yes, sir.

Q. Were those questions in regard to whether you had made statements to Mr. Zulley, admitting that you were a prostitute or denying that you were a prostitute?

A. I remember that I was asked.

Q. And after all those questions were asked you and you answered them, did you then sign the paper and swear to it?

A. Yes.

WILLIAM LESKOWSKI, called as witness by the defence, being first duly sworn, testified as follows:

Mr. DYER:

Q. Where do you live?

A. On 7th St.

Q. What city and state?

A. East St. Louis, Illinois.

Q. Where did you live in September and October, 1908?

A. On 5th and Illinois avenues.

Q. What place?

A. East St. Louis, Illinois.

Q. Do you know Urzula Zakonaite?

A. Yes, sir.

Q. When did you first see her in this country?

A. The day she arrived, in my house.
Q. Were you expecting her at the time she arrived?
A. Yes.
Q. Why?
A. Just because she wrote me a letter and she was asking about different things, and then we sent her a letter that she should come.
Q. Are you a married or a single man?
A. Married.
Q. When were you married?
A. Three years ago last August.
Q. Were you living with your wife in that house in East
61 St. Louis to which Urzula Zakonaite came in September or October, 1908?
A. Yes sir.
Q. Did Ursula Zakonaite board or live at your house in E. St. Louis?
A. She was living with me as a boarder.
Q. How long did she live at your house?
A. I could not tell exactly—about five or five and a half months.
Q. During the time that she lived at your house was she engaged in working at any place?
A. She went to a factory to work.
Q. Do you know what factory?
A. Armour & Co.
Q. How long after she first arrived at your house before she went to work for Armour?
A. About three or four weeks.
Q. During the time that she lived at your house, where did she sleep?
A. She slept in my room where I was sleeping with my wife.
Q. During the time that she lived at your house, how did she conduct herself?
A. She conducted herself just like the rest of the girls, that is all.
Q. Did she have men visit her at your house while — was *wus* living there?
A. Once in a while they used to come there and talk with her in my room.
Q. Was there always someone in the room at the time these men would visit her beside Urzula Zak*no*aite?
A. Well, I was always myself in the room whenever anybody used to come. I would be in the room also, sitting there.
Q. What would be her actions toward the men who came to call on her at your house?
A. Well, she used to act just like all of them. She would play cards and have some fun, that is all.
Q. Do you know what her reputation in the community in which she lives is for morality and uprightness and chastity?
A. I never heard anything from the other people that she was a bad girl.
Q. Did you ever hear anyone question the character of Urzula Zakonaite until the time of her arrest in January, 1910?

A. No, I never heard it.

62 Q. Why did Urzula Zakonaite move away from your house, if you know?

A. Just because my brother in law got married and we rented one house with him and I had down there one room with my wife and children and there was no place for her to live.

Q. What is your brother in law's name—the one that got married?

A. John Cospeta or Cassly.

Q. Was John Cassly living at the same house with you at the time Urzula Zakonaite came to your house?

A. Yes sir, he was there boarding with me.

Q. Did Urzula Zakonaite occupy the same room with Cassly at your house up to the time John Cassly was married, or at any time?

A. No, sir. John Cassly was sleeping on the second floor and I was on the main floor and she was staying with me, only in the kitchen during the meals we got together.

Cross-examination by JAMES R. DUNN:

Q. Were you married in this country?

A. Yes, sir.

Q. How many rooms are there in this house you occupied which you just described?

A. Two rooms on the second floor and two on the main floor.

Q. What were the downstairs rooms?

A. One room I occupied myself and the other was a kitchen.

Q. How do you mean occupied it yourself?

A. I was sleeping in that room; one was a bed room and the other was a kitchen.

Q. Who occupied that bed room with you?

A. Urzula Zakonaite and myself and wife.

Q. Anyone else sleep in that room?

A. No.

Q. What were the rooms upstairs?

A. Bed room.

Q. *Who* many people occupied those two rooms?

A. Eight men.

Q. Any women?

A. No.

Q. Were all those people your boarders?

A. Yes, sir.

63 Q. Was your front room or sleeping room downstairs a general meeting room for the boarders and their friends?

A. No, sir, they could not go to my room.

Q. Where did the boarders congregate?

A. In the kitchen.

Q. You knew Urzula Zakonaite in the old country, did you?

A. I knew her from a very little girl. I went to school with her.

Q. Are you related to her in any way?

A. No, sir, I just was acquainted with her.

Q. Did you know her parents in the old country?
A. Yes, sir.
Q. Did her father or mother or anybody else write to you that she was coming over here?
A. Yes, sir, she wrote to me and her father also wrote on the same letter, and he asked me whether she could come to this country and asked about what the conditions were in this country and I told her that she may come.
Q. Did you write back to her father before she came over?
A. Yes, sir, I wrote to her father before she came and after she came that she arrived.
Q. How many letters did you write him about that?
A. About four, probably.
Q. What did you say in those letters?
A. Well, I just wrote greetings to everyone there and they asked me whether she may come here to this country or not, whether there was any work, whether she could make a living, and I told them there was plenty of work in packing houses where she could work and make her living.
Q. Did you tell her you would find her a job if she would come over?
A. Sure, I told her.
Q. Did you tell her where she would get work?
A. Yes, sir.
Q. Where did you tell her you would find her work?
A. I told them in the packing houses where they kill the cattle.
Q. Which packing house did you indicate?
A. I did not indicate anyone of these packing houses. I did not mention the Company's name, but I told them that she could get work here.
Q. Did you tell her what compensation she would receive?
A. I told them that she may make about six or seven dollars a week.
Q. What is the name of Urzula Zakonaite's father?
A. I do not know.
64 Q. How did you address letters to him?
A. I always wrote in her name—Urzula Zakonaite.
Q. How does it come that you do not know her father's name when you have been acquainted with him so long?
A. I knew him but I did not care for his name and I did not ask for his name.
Q. Did you ever visit his house in the old country?
A. Sure, I used to go once in a while.
Q. What was his occupation in the old country?
A. He has ground and he works as a farmer, that is all.
Q. Does he own his own farm?
A. Yes, sir.
Q. How many children did he have?
A. I could not tell exactly—about six.
Q. Do you know whether any of the other children are in this country?
A. No, sir.

Q. What reason did Urzula Zakonaite's father give you for wanting her to come to America?

A. Well, I do not know what reason he gave, he just wrote me that she wanted to come and probably she wanted to make money or something in this country.

Q. Do you know what her occupation was in the old country?

A. She was working up there on the farm with her father.

Q. Did you ever hear whether she was arrested in the old country?

A. I never heard of it; while I was in the old country she was not arrested.

Q. Did you ever hear that she was arrested in the old country?

A. I never hear of it.

Q. Do you know where Urzula Zakonaite obtained her ticket to come to America?

A. I do not know.

Q. Did you send her any money or tickets to come over?

A. No.

Q. Do you know whether anyone else in America sent her any tickets of money to come here?

A. I do not know.

65 Redirect examination by H. L. DYER:

Q. What is your business?

A. I am a butcher working in a butcher shop.

Q. In East St. Louis?

A. In East St. Louis.

Q. Were you engaged by any packing company to procure girls over in the old country to come over and work in the packing houses?

A. No, nobody asked me.

Q. You were not acting as an agent of any packing house when you wrote this letter to her that she could come and find work in America, were you?

A. No.

Recross-examination by JAMES R. DUNN:

Q. Have you any other occupation except that of a butcher?

A. At present I have no work.

Q. Have you had any other occupation at any time except that of a butcher, since Urzula Zakonaite has been in this country?

A. No.

Q. Ever keep a saloon or have any interest in one?

A. No, sir.

Re-redirect examination by H. L. DYER:

Q. How long have you been in the country?

A. Over five years.

Q. Are you naturalized?

A. No, sir.

TONY LESKOWSKI, called as witness by the defence, being first duly sworn, testified as follows:

Mr. DYER:

Q. What is your name?
A. Anton Leskowski.
Q. Where did you live in September and October, 1908?
A. 501 Illinois avenue, East St. Louis, Illinois.
Q. Do you know Urzula Zakonaite?
A. Yes.
Q. When did you first see her in America and where?
A. I just came from work and I found that she arrived and found her in the house.
Q. What house did you find her in?
A. 501 Illinois avenue.
Q. Whose house was that?
A. Joe Bories had a saloon up there and William Leskowski rented the house.
66 Q. Who lived in that house in September and October, 1908?
A. Leskowski.
Q. How many floors did they have in that house?
A. Two floors.
Q. Did you live there in the house yourself?
A. I was boarding and got my meals and everything from Leskowski and slept on the second floor.
Q. How many rooms were there on the first floor of that house?
A. Four rooms but the other two were occupied by somebody else.
Q. How many rooms did William Leskowski have on the first floor?
A. Two.
Q. How were those two rooms that he had used—what were they used for?
A. One was used for a kitchen and the other one he was sleeping in.
Q. How many rooms did William Leskowski have upstairs?
A. Two.
Q. Who lived in the rooms upstairs at that time?
A. All the boarders.
Q. How many were there in October, 1908?
A. I could not say—about five or six.
Q. Did you ever see Urzula Zakonaite upstairs in those rooms?
A. While I was down there she never was upstairs.
Q. Did you see her down-stairs in Leskowski's rooms?
A. She was sleeping down there in Leskowski's rooms and we used to come down in the evening and just have a talk, that is all.
Q. How long did she live there, if you know?
A. I could not tell; about six or a little over six months.
Q. How did she conduct herself while she was in that house, if you know?
A. She conducted herself just like the rest of the girls.

Q. Do you know her reputation for morality and chastity in the community in which she lives in East St. Louis?

A. How can a man know as to her morality and chastity?

Q. Have you ever heard it discussed at all, one way or the other?

A. No, I never heard it discussed.

67 Q. Did you ever hear anyone question Urzula Zakonaite's character for morality and chastity?

A. No, sir.

Q. What is your business?

A. I work in packing houses.

Q. What packing house?

A. Swift & Co.

Q. Did you ever know Urzula Zakonaite in the Swift Packing house?

A. I have seen her every day there. I worked for five months there.

Q. From what time until what time have you seen her there at Swift'-?

A. From seven until the time she finished her work, and I used to meet her every day she went home.

Q. When did you first see her working at Swift's—how long ago?

A. I got my work there on September 17, and on September 18 I saw her there.

Q. Last September,—September, 1909?

A. 1909.

Q. Do you know whether she was working at Swift'- before you started to work for Swift?

A. Sure, she was working there when I started.

Q. When was the last time that you saw her at work at Swifts?

A. It was about three weeks ago. I believe it was on Thursday.

Q. Do you remember the date or the time that Urzula Zakonaite was arrested?

A. I do not know what date it was.

Q. Do you remember the incident—about the time?

A. Yes, I remember.

Q. How long before that time was it that you saw her working at Swift'- the last time?

A. The last time I saw her in the morning. She showed up to work.

Q. How long have you been in the country?

A. Five years, I guess.

Cross-examination by JAMES R. DUNN:

Q. Did you know Urzula Zakonaite in the old country?

A. I knew her from a little girl up.

Q. Did you know her father?

A. Yes, I know him very well and the brothers and sisters.

Q. Did she or any member of her family write to you

68 about her coming over here in advance of her coming?

A. She wrote to us that she wants to come to this country and I wrote all the letters to her myself.

Q. What do you mean by that?

A. Well, she sent letters to John Cassly that she wanted to come to this country and John Cassly could not write himself and so I wrote all the letters for him.

Q. What did you write in those letters?

A. We told her that if she wants she may come to this country. She may get work.

Q. Did you or John Cassly offer her any employment if she came over here?

A. We wrote, all of us, that she could get work because all the girls get work in East St. Louis.

Q. Answer the question directly please (question read)?

A. Sure, we told her.

Q. What kind of work did you promise her?

A. In packing houses.

Q. What compensation did you tell her she would have?

A. There are three companies, we did not know in which one she would get work.

Q. I want to know what compensation you told her she would receive over there?

A. We wrote her that she would not be able to make more than six dollars a week because they pay only ten cents per hour to all the girls there.

Q. When did you come to America?

A. I left Russia just after New Year's in 1905.

Q. Have you ever been naturalized?

A. No, sir.

Q. Have you taken out your first papers?

A. No, sir.

Q. Have you had any other occupation in America except working in a packing house?

A. I worked all my time here in packing houses except in Pittsburg where I worked in a steel foundry.

Q. How long have you lived in East St. Louis?

A. I guess 4 years.

Q. Have you had any occupation over there or any business except working in a packing house?

A. No.

69 Q. Are you connected with or have you any interest in any saloon over there?

A. No.

Q. Do you still live at William Leskowski's place?

A. Yes, sir.

Q. When did Urzula Zakonaite leave that house?

A. I could not tell when it was. I know that he moved out and then I was living with Kavalunas and Urzula Zakonaite went to live with Jonickey.

Q. When was it that Urzula Zakonaite left William Leskowski's home, wherever it was?

A. I do not remember.

Q. Can't you approximate it?

A. I cannot tell.
Q. Was it a year ago or nine months ago or six months ago or three months ago?
A. About eight or nine months ago as near as I can recollect.
Q. Do you know how many places of abode Urzula Zakonaite has had since that time?
A. So far as I know she is in the third place now, after she moved from Leskowski's.
Q. Have you seen her often since she left your brother's home?
A. I have seen her every day.
Q. Where?
A. I have seen her going to work and after coming from work and very often I used to go to Grasie's where she is living now.
Q. Did you see her often in the evenings?
A. No.
Q. Do you know anything about how she spends her evenings?
A. I do not know what she is doing there. I know when——
Q. I am talking about now—since you do not live in her own house. What do you, yourself, know, about the way in which she spends her evenings?
A. All I could tell, it is when I went there when I visited at the place where she lives. I would find her writing letters or reading books in the Lithuanian language.
Q. Have you gone to see her very often since she has had a room by herself?
A. Not very often. I am always working long hours and I cannot go down there very often.

70 TONY JANIKES, called as witness for the defence, being first duly sworn, testified as follows:

Mr. DYER:

Q. What is your name?
A. Tony Janikes.
Q. Where do you live?
A. 6th and Ohio avenues, E. St. Louis, Ill.
Q. How long have you lived there?
A. Eight years.
Q. How long have you been in the United States?
A. Nine years.
Q. Are you a citizen of the United States?
A. No.
Q. You have never been naturalized?
A. No.
Q. Do you know Ursula Zakonaite?
A. I know her for about fourteen months.
Q. Did she ever live at your house?
A. Yes, sir, two months.
Q. When did she come to your house?
A. I believe she came to my house in January, 1909.
Q. How long did she stay?

A. Two months.
Q. While she was living at your house, with whom did she room?
A. She was sleeping in my sister's room.
Q. What is your sister's name?
A. Annie Janikes.
Q. Why did she leave your house?
A. Just because my sister got married and she moved out to some mining town and there was nobody up there and she had nobody to live with.
Q. Then did she move away?
A. The day my sister moved in the mines, the same day she moved out.
Q. Well, during the time that she lived at your house, did you see her frequently?
A. I saw her always.
Q. How did she behave herself—conduct herself?
A. She conducted herself in a good way and she used to help cook, wash the dishes and everything and then she used to go to bed.
Q. Do you know her reputation in the community in which she lives, up to the time of her arrest in January, 1910, for morality and chastity?
A. Any place I went, everybody says that she was all right.
Q. Now, who did you ask about whether she was all right
71 —whether she was a good girl or a bad girl?
A. The time she came from the old country I went down to the house and she was a good looking girl and I said, "What kind of a girl is she," and they said, "She is a nice girl." That is in the house where she lived.
Q. Have you heard anyone discuss her reputation since that time?
A. No, I never heard it discussed.
Q. What is your business?
A. I work in the steel works.
Q. Did you ever see any men visit her while she was at your house?
A. I never seen any men come to her. If anybody came to the house, they always came on business to me.

Cross-examination by JAMES R. DUNN:

Q. Have you any other occupation besides working in the steel mills?
A. No.
Q. Have you any interest in any saloons in East St. Louis?
A. I have no interest but my brother has a saloon so I work as bartender once in a while to help him out.
Q. Since Urzula Zakonaite left your house, have you seen her often in her rooms?
A. No, sir.
Q. Do you know anything about how she conducts herself at her rooms or in the evenings?
A. I do not know. I do not go to her rooms.

GUSTINE KAVALIUNAS, called as witness for the defence, being first duly sworn, testified as follows:

Mr. DYER:

Q. What is your name?
A. Gustine Kavaliunas.
Q. Where do you live?
A. Over Borie's saloon.
Q. What street and number, if you know?
A. I do not know what number it is.
Q. What street is it on?
A. Collinsville avenue.
Q. How long have you been living there?
A. I do not remember.
Q. About how long?
A. I do not know.
Q. Have you lived there a year or two years or three years—how long?
A. Not quite one year yet.
72 Q. Do you know Urzula Zakonaite?
A. Yes, sir.
Q. Did she ever live at your house?
A. Yes, sir.
Q. Where were you living at the time that Urzula Zakonaite boarded with you or lived with you?
A. Borie's on 5th and Illinois Avenues. I was there and she came to me and after I moved from Borie's saloon *on* 443 Collinsville avenue, she came with me also—right over that saloon.
Q. How long did she live with you?
A. About four or five months—I do not remember.
Q. Where had she been living prior to the time she came to live with you?
A. Janikes.
Q. Are you married or single?
A. Married.
Q. How long have you been married?
A. About 6 or 7 years.
Q. What business is your husband in?
A. He works any place he gets work, stock yards or steel works or any place.
Q. How many rooms did you have when Urzula Zekonaite lived with you?
A. Three rooms.
Q. How were they used?
A. First room was used by boarders and the second room was occupied by us and the third was a kitchen.
Q. How many boarders did you have?
A. Once I had about five and sometimes I had four—I could not tell exactly.
Q. Where did Urzula Zakonaite sleep while she was living in your house?

A. In the same room that I slept.

Q. Did anyone visit Urzula Zakonaite while she was living with you?

A. Sometime fellows used to come there and they used to sit down and talk and then when the time comes they used to go home. The fellows are coming even now.

Q. How did she conduct herself while she lived in your house, toward the men who would visit there?

A. I did not see any bad conduct. We used to talk altogether and that is all.

Q. While she was living at your house, what did she do
73 at night time—stay at home or did she go out?

A. She used to sleep at nights. Every time I went to bed she used to go, and if she went out she would ask me and if I said she should not go, then she would not go.

Q. Who were the men that would come to see her or come to see you—what would be their business or employment?

A. How can I know what they do, probably some of them worked in stock yards and some of them in steel works. I could not tell.

Q. Do you know what the people say about her—whether she is a good or bad girl in the community in which she lives and the people she associates with?

A. I never heard anybody say anything about her. She was a good girl. She used to come home on time and slept at night and so on.

Q. Was she working at the time she was living at your house?

A. She worked for Swift & Co.

Q. What time would she go to work in the morning?

A. Once in a while she would go from six and sometimes from seven.

Q. What time would she generally come home from work?

A. Once in a while she would come home at six, sometimes at five, sometimes at three and four, according to the work she had.

Cross-examination by JAMES R. DUNN:

Q. When did Urzula Zakonaite leave your home?

A. I do not remember.

Q. Tell me as near as you can remember?

A. I do not remember. I keep boarders and I would not bother my head about that for the boarders come and leave and I do not bother about it.

Q. Was it more than six months ago?

A. About three months or probably not quite three months or probably three and a half months. I do not know.

Q. Where has she been living since she left your place?

A. By Mrs. Grasies.

Q. Where?

A. On Fifth St.

Q. What number?

A. I do not know.

74 Q. Have you been at her rooms at all since she left your house?

A. Yes, sir. I was down there.

Q. How many times have you been there?

A. I go very often down there. I could not tell how many times.

Q. What do you go for?

A. Just because Mrs. Grasie- is from the same country as I am and on holidays or something I go down there.

Q. Do you always find Urzula Zakonaite there when you go to her present rooms?

A. Very often I would find her home—once in a while she would be out.

Q. When did you go, afternoons or evenings?

A. On holidays I would do my work and in the afternoon I would go down there and about six o'clock I would come home.

Q. Do you find her there in the day time mostly when you go there?

A. Sure, whenever she was not working I would find her there.

Q. Did you find her at home evenings when you went there?

A. Yes, sir.

Q. Did you ever go there and spend the evenings with her with any men?

A. Well, we go down there and get together and sit down and talk——

Q. That is not the question that I asked (question read)?

A. I would go down there and we would spend the evenings in one room and the men would sit in the other room.

Q. What men are you talking about?

A. The boarders that were in that house.

Q. Where has Urzula Zakonaite been living—what kind of a house since she left your place?

A. The lady of the house there and she keeps——

Q. Is it a boarding house—what kind of a house is it?

A. Yes, sir.

Q. Is this over a store or saloon?

A. On the main floor.

Q. What kind of a house is it?

A. Wooden house.

Q. Two stories or one story?

A. Two stories.

75 Q. How many rooms are there in it?

A. Three.

Q. How are those rooms located?

A. Three rooms where the people lived, who lived with Grasies.

Q. That is where Urzula Zakonaite lived up to January 5th?

A. Yes.

Q. Have you ever been to her present room with your husband?

A. Sometimes I would go down there with my husband and children.

Q. What is your husband's occupation?

A. He went to some town, I do not know where. I do not know what he is doing now, he could not get any work up here.

Q. How lately has he been living with you in E. St. Louis?

A. Until last week.

Q. Has he been interested in or employed in any saloon in East St. Louis?

A. No, sir.

MARYONA GRAZIENA, called as witness for the defence, being first duly sworn, testified as follows:

Mr. DYER:

Q. What is your name?

A. Maryona Graziena.

Q. Where do you live?

A. Fifth St., E. St. Louis, Ill.

Q. How long have you lived there in E. St. Louis?

A. Over three years.

Q. Do you know Urzula Zakonaite?

A. Yes.

Q. How long have you known her?

A. From the time she arrived from the old country.

Q. Did she ever live at your house?

A. Yes, sir.

Q. When did she come to your house to live?

A. I do not know in what month.

Q. About how long did she live at your house?

A. Not quite four months. I could not tell.

Q. Was she living at your house in January, 1910?

A. I do — know the month. I do not know what to say.

Q. Was Urzula Zakonaite living at your house at the time she was arrested?

A. Yes, sir.

Q. Are you a married or a single woman?

A. Married.

Q. How long have you been married?

A. About nine years.

76 Q. Is your husband living?

A. Yes, sir.

Q. Are you living with him?

A. Yes.

Q. What is his business?

A. He works now in the City Water Works, East St. Louis, Illinois.

Q. How long has he been working at the City water works?

A. Before he worked a year and a half and after he got malaria he was sick and then he quit that job and now he is back there.

Q. How many rooms have you at your house on 5th street?

A. Three rooms.

Q. How do you use them?

A. One is a kitchen and the other room that I used and Urzula Zakonaite and the other room is where four boarders sleep.

Q. During all of the time that Urzula Zakonaite lived with you what room did she occupy and who was in the room?

A. In the same room that I would sleep.

Q. Who else slept in that room beside you and Urzula Zakonaite?

A. Myself, my husband and children and——

Q. How many children have you?

A. Two.

Q. What did Urzula Zakonaite do during the evenings and night time while she lived at your house?

A. In the evening we would sit down and *sign* or else she would talk or pick up a book or newspaper and read.

Q. Was she home most of the time or did she go out a great deal at night?

A. She would go out probably one in a while at the hall when there was a ball or dance.

Q. Did she attend the dances that were given by the Lithuanians there in E. St. Louis?

A. I could not tell how many times she was out but she used to go.

Q. What did the people with whom she associated and the people in the community in which she lived think of her—whether she was a good or bad girl?

A. I do not know. I never heard anything bad.

Q. During the time that she lived at your house, how did she conduct herself?

77 A. She used to conduct herself just like every other girl: sometimes she used to come later and sometimes earlier from work and she would help me wash clothes and so on.

Q. Was she working at the time she was living at your house?

A. She worked in packing houses.

Q. What time would she go to work in the morning?

A. From six or seven o'clock not later.

Q. Did she go to work every day or did she only go to work once in a while?

A. Every day she went to work. No matter how little she worked there.

Q. What time would she come home in the afternoon or evening?

A. According to the work she had. She used to work on piece work and as soon as she got through with her work she would come home.

Q. What time was that as a general thing?

A. Sometimes she would come at six. I cannot tell, she would get out at different times. She would get home at different hours. When she worked longer she would get home at 6 and sometimes earlier.

Cross-examination by JAMES R. DUNN:

Q. Where did you say your husband works?

A. City Water Works.

Q. Has he any other occupation than that?

A. No, sometime ago he quit that water work- job and he went to work in the stock yards and then he quit there——

Q. Is your husband interested in any of those saloons in East St. Louis?

A. No.

PETRONELLE BOGDANSKA, called as witness for the defence, being first duly sworn, testified as follows:

Mr. DYER:

Q. What is your name?

A. Petronelle Bogdanska.

Q. Do you know Urzula Zakonaite?

A. Yes.

Q. Did you ever work with her?

A. At Armour's.

Q. How long did you work with her?

A. About three weeks. I worked before in the trimming room and now I work in the sausage room.

78 Q. Just tell us how you worked with Urzula Zakonaite at Armour's?

A. We were trimming meat up there.

Q. Was that when Urzula Zakonaite first started to work for Armour's?

A. Yes, sir.

Q. And you worked there how long?

A. About three or four weeks.

Q. After the three or four weeks that you trimmed meat, where did Urzula Zakonaite go then?

A. To the next place.

Q. What was the next place—what was the other department?

A. Sausage room.

Q. How long did she work in the sausage room, if you know?

A. I was not working in the sausage room. I do not know how long she worked. I used to see her down there.

Q. How long, if you know, did she work at Armour's?

A. I cannot tell.

Q. Can you approximate it?

A. I do not know.

Cross-examination by JAMES R. DUNN:

Q. What is your name?

A. Petronelle Bogdanska.

Q. Are you married?

A. Yes, sir.

Q. What is your husband's name?

A. Jack Bordosky.

Q. Is he a Lithuanian?

A. Yes, sir.

Q. When were you married to him?

A. About six months ago.
Q. Where?
A. In the Lithuanian Church, E. St. Louis.
Q. Were you married by a priest?
A. Priest.
Q. What was the name of the priest?
A. I do not know.
Q. What church was it?
A. On 15th St., I do not know.
Q. Did you have trouble with your husband before your marriage?
A. Yes, sir.
Q. Did you have your husband arrested before you were married to him?
A. Yes, sir.
Q. What for—what did you have him arrested for?
A. He told me that I should arrest him.
Q. Isn't it a fact that you had him arrested for bastardy?
79 A. Because I had immoral relations with him.
Q. You admit you had immoral relations with the man before you had him arrested—the man you subsequently married?
A. Just because we were rooming together in the same boarding house.
Q. Did you sleep with him before you were married to him?
A. Yes.

Redirect examination by HORACE L. DYER:

Q. Were you engaged to marry him at the time you were sleeping with him, before you were married?
A. No.
Q. At the time you were sleeping with him, had he promised to marry you?
A. No.
Q. At the time you were sleeping with this man, was it under promise of marriage or had he promised to marry you?
A. Yes, sir, he promised to marry me.
Q. Did he refuse to marry you and that was the reason that you had him arrested?
A. He did not say anything to me. He told me to arrest him, that is all.
Q. Did you ask him to marry you?
A. Yes.
Q. After you found out that you were to become a mother, did you ask this man with whom you were living to marry you, and did he refuse to do it?
A. No.

Recross-examination by JAMES R. DUNN:

Q. Have you ever had a child?
A. No, sir.

Q. Are you in a family way now?
A. Yes.
Q. Were you pregnant at the time you were married?
A. I do not know whether I was pregnant or not.
Q. At the time that you had your man, who became your husband, arrested, did you then expect to be a mother?
A. I do not know anything about it.

JENNIE GERTCHES, called as witness for the defence, having been first duly sworn testified as follows:

By Mr. DYER:

Q. What is your name?
A. Jennie Gertches.
Q. Do you know Urzula Zakonaite?
A. Sure, we were working together.
Q. Where were you working together?
A. In the trimming room for Swift & Co.
Q. How long did you work there with her?
A. Not quite one year.
Q. What time in the morning did Urzula Zakonaite come to work, if you know?
A. Once in a while at six and sometimes at seven. We used to meet each other on our way while going to work.
Q. Did you live in the same direction that she did from the Swift Co.?
A. She lives on 5th street and I live on 7th St.
Q. Did you see her working there at Swift's daily or only once in a while?
A. We used to work on one table together and I have seen her every day.
Q. Are you married or single?
A. Single.
Q. Do you ever see Urzula Zakonaite after business hours—after your work?
A. Yes, we used to come home from work together and sometimes I used to go to her house and sometimes she would come to my house.
Q. Would you often spend the evenings together?
A. Not often I could not tell now.
Q. What would you do when you spent the evenings together?
A. What could we do just talk, that is all.
Q. Did you go out to any dances or any other extertainments together?
A. We never went to any entertainments, we just got together and sat down and talked.
Q. Do you know her reputation in the community in which she lives and with the people with whom she associates as to morals and chastity; that is whether they consider her a good or a bad girl?
A. I never heard anything about her. She is just like the other girls.

Cross-examination waived by Inspector in Charge, James R. Dunn. Adjournment had until 10:30 A. M., February 2, 1910.

81 FEB. 2, 1910.

Atty. Horace L. Dyer, appeared and stated that he would not ask for the examination of the additional witnesses who had been sworn on the previous day. Subsequently Mr. Dyer was informed of a communication received from the Rev. J. A. Gadeikis and report of Immigrant Inspect. Geo. C. Murrell as to later investigations in East St. Louis and affidavits of City Detectives, *et al.*, and expressed the desire to cross-examine these witnesses. He was informed that they would be requested to come to this office for cross-examination and that if they declined to appear because of the absence of subpœnaes this office would undertake to assist him in examining and cross-examining them at East St. Louis. On the following day Mr. Dyer informed the Inspector in Charge that he would waive the cross-examination of the aforesaid witnesses and further formality.

82 SAINT LOUIS, MISSOURI, *February* 8, 1910.

IN RE URZULA ZAKONAITE.

Statement of Edward C. Zulley.

My name is Edward C. Zulley; I reside at 622 North 8th St., E. St. Louis, Illinois. I am an interpreter, in the Polish, Lithuanian, and other languages, and in the course of my business am thrown among the Lithuanians of East St. Louis, very frequently.

Within the past few weeks I have heard the Lithuanians discussing the case of Urzula Zakonaite; that they have to defend her because she is one of their countrywomen. I personally know of the existence of a gang of Lithuanians in East St. Louis of a half a dozen or more persons of bad reputation in the community, most of whom are pimps or frequenters of the houses of ill-fame in E. St. Louis. I have been told by different members of this gang that they had to defend Urzula Zakonaite or any other Lithuanian women, no matter how bad they are. I have been threatened with bodily injury by this gang because they believe I am assisting the government in the prosecution of the case. Numerous other Lithuanians have been similarly threatened in case they should give testimony derogatory to the alien Urzula Zakonaite's interests.

EDW. C. ZULLEY.

Subscribed and sworn to before me this 8th day of February, 1910.

GEORGE C. MURRELL,
Immigrant Inspector.

POLICE DEPT., E. ST. L., ILL., *Feb.* 7, 1910.

My name is Jno. J. Erwin. I am a detective of the Police Department of E. St. Louis, Ill. I have been connected with this
83 department here in E. St. Louis, Ill. about six years. I am acquainted with the place at 443 Collinsville avenue, E. St.

Louis, Ill. There is a saloon downstairs, and I understand that from three to five months ago there was a house of prostitution conducted upstairs over this saloon at 443 Collinsville avenue.

JOHN J. ERWIN,
Detective.

POLICE DEPT., E. ST. L., ILLINOIS, *Feb.* 7/10.

My name is L. L. Yowell; I am a detective with Police Dept. in E. St. Louis, Ill. I was connected with this department for over six years. I know the place 443 Collinsville avenue where there is a saloon downstairs and that about four or six months ago there was a house of prostitution conducted upstairs and has been to my knowledge for the past five years. I was inside of said house several times and there was always from four to six or seven girls prostitutes there.

L. L. YOWELL,
Detective for the City of E. St. L., Ill.

DEPARTMENT OF COMMERCE AND LABOR, BUREAU OF IMMIGRATION AND NATURALIZATION.

No. 52742/52.

WASHINGTON, *February* 16, 1910.

Inspector in Charge, Immigration Service, St. Louis, Mo.

SIR: After a careful consideration of the entire evidence submitted in the case of Urzula Zakonaite, alias Urzulia Czowski,
84 alias Urzala Czekanowicz, the Department has issued warrant for her deportation to the Commissioner at Ellis Island, with instructions to advise you promptly of the sailings of the line bringing the alien to this country.

You are instructed, upon receipt of the above advice, to cause this woman to be taken into custody and conveyed to New York, N. Y., for deportation, the expenses, both incidental and extraordinary, of such conveyance, including the services of an attendant at a nominal compensation of $1.00 and expenses, both ways, being authorized, payable from the appropriation "Expenses of Regulating Immigration, 1910."

Respectfully,
(Signed) DAN'L J. KEEFE,
Commissioner-General.

Approved:

(Signed) BENJ. S. CABLE,
Assistant Secretary.

C. B. D.

85 Thereupon the Respondents rested, and thereupon the Petitioner made proffer of testimony to prove that the allegations contained in the Warrant of Deportation issued by the De-

partment of Commerce and Labor of the United States, which is contained in the Transcript above set out, were not true, and that the findings of the Secretary of Commerce and Labor in regard to the petitioner were not true, which testimony the Court refused to receive to which action of the Court Defendant then and there duly excepted. Thereupon the Court took the matter under advisement, and thereafter on the 9th day of April, 1910, ordered and adjudged that the Petitioner be remanded to the custody of Casper J. Wolf, Jailer of the City of St. Louis, under the Warrant of Deportation set forth in his return, to which order and Judgment the Petitioner at the time duly excepted, and thereafter on the said 9th day of April, 1910, said petitioner filed her petition for appeal to the Supreme Court of the United States, which appeal was allowed by the Court, and the Petitioner was discharged from custody on giving a Bond in the Sum of One Thousand Dollars, ($1,000), in accordance with law, which bond was given and approved, and thereafter on said 9th day of April, 1910, the Court granted the Petitioner until the 8th day of May, 1910, to file a Bill of Exceptions, and now on this 29 day of April, 1910, Petitioner presents this Bill of Exceptions, and prays that the same may be signed and sealed and made a part of the records in this cause, which is accordingly done.

DAVID P. DYER,
Judge of the United States District Court in the Eastern District of Missouri.

O. K.,
T. P. YOUNG,
Att'y for Respondents.

86 Indorsed: Case No. 3870. United States District Court, Eastern Division of the Eastern Judicial District of Missouri. In the Matter of Urzulia Zakonaite. Bill of Exceptions. Filed, April 29, 1910. W. W. Nall, Clerk.

87 UNITED STATES OF AMERICA,
Eastern Division of the Eastern Judicial District of Missouri, ss:

I, W. W. Nall, Clerk of the District Court of the United States, in and for the Eastern Division of the Eastern Judicial District of Missouri, Do hereby certify that the writing hereto attached is a full, true, and complete Transcript of the Record and Proceedings in the Matter of Petition for Habeas Corpus of Ursulia Zakonaite, No. 3870, as fully as the same remains on file and of Record in said case in my office, and that the original citation is hereto attached and herewith returned.

In witness whereof, I hereunto subscribe my name and affix the seal of said Court, at Office in the City of St. Louis, in the Eastern

Division of the said District, this Fourth day of May, A. D., Nineteen-Hundred — ten.

[Seal of the United States District Court, Eastern Division of the Eastern Judicial District of Missouri.]

W. W. NALL,
Clerk of said Court.

Endorsed: on cover File No. 22161. E. Missouri D. C. U. S. Term No. 547. Urszulia Zakonaite, appellant, vs. Casper J. Wolf, jailor of the city of St. Louis. Filed May 12, 1910. File No. 22161.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1912.

Supreme Court, U. S.
FILED.
SEP 18 1912
JAMES H. McKENNEY
CLERK

URSZULIA ZAKONAITE,
Appellant,

vs.

CASPER J. WOLF, Jailer of the City of St. Louis,
Respondent.

No. 53.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF MISSOURI.

APPELLANT'S BRIEF.

CHAS. F. JOY,
L. G. POPE,
HY. B. DAVIS,
Counsel for Appellant.

St. Louis Law Printing Co., Printers' Bldg., Ninth and Walnut. Bell Main 1819.

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SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1912.

URSZULIA ZAKONAITE,
Appellant,
vs.
CASPER J. WOLF, Jailer of the City of St. Louis,
Respondent.
No. 547.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF MISSOURI.

APPELLANT'S BRIEF.

STATEMENT.

This is a case in which an application was made, on the 17th day of January, 1910, in the District Court of the United States, for the Eastern Judicial District of Missouri, on behalf of Urszulia Zakonaite, for a writ of *habeas corpus*, directed against Casper J. Wolf, Jailer of the City of St. Louis, Missouri.

The appellant's petition for the writ was filed on the 17th day of January, 1910, in the office of the Clerk of the District Court of the United States, in and for

the Eastern Division of the Eastern Judicial District of Missouri, and was addressed to the Honorable David P. Dyer, Judge of said court.

Amongst other things, the petition sets out that Urszulia Zakonaite, a resident of the City of East St. Louis, in the State of Illinois, is unlawfully deprived and restrained of her liberty by one Casper J. Wolf, Jailer of the City of St. Louis, State of Missouri, within and for the Eastern Division of the Eastern Judicial District of Missouri. That she is of the Lithuanian race, was born in Russia, and arrived in the United States on the 27th day of September, 1908, at the port of New York City, and thereafter came to the City of East St. Louis, Illinois, where she was apprehended on the 5th day of January, 1910, and brought to the City of St. Louis, Missouri, upon a telegraphic warrant, issued by the Commissioner of Commerce and Labor, charging her with being in the country unlawfully, and that she was brought into this country for immoral purposes and prostitution.

That she was, on the 7th day of January, 1910, taken before James R. Dunn, Inspector in Charge, and a representative of the Department of Commerce and Labor in the City of St. Louis, Missouri, in said District. That she was there examined, through an interpreter, by the said James R. Dunn, as to certain matters pertaining to her right to be in the country.

That she is informed and believes that the statements, so translated, misrepresent the real and true answers made by her in her own language; and she is charged with having admitted in said statements, so made, that she was, within three years after her arrival, practicing prostitution; whereas, in truth and fact, she did not make such statements or admissions to the interpreter,

and the interpreter, through mistake or fraud upon his part, misinterpreted the answers to the questions propounded to her.

The petition further recites that she has been confined in said jail since the 7th day of January, 1910, without warrant of law or the order of this Honorable Court, and concludes with the averment that no other application has been made for relief or refused by any other court, officer, or officers superior to the United States Court.

The petition then prays that the writ of *habeas corpus* issue, commanding said Casper J. Wolf to produce the body of the petitioner, then in the jail as aforesaid, and that she be discharged from said unlawful restraint and restored to all of her rights, guaranteed to her by law.

The petition was duly verified by the affidavit of Urszulia Zakonaite, and, on the same day, to-wit, the 17th day of January, 1910, the District Court, as aforesaid, ordered that the writ of *habeas corpus* issue, as prayed, directed to the said Casper J. Wolf, Jailer of the City of St. Louis, Missouri, returnable on January 24th, 1910. And thereupon, on the said 17th day of January, 1910, there was issued out of the clerk's office of said Court, a writ of *habeas corpus*, directed to Casper J. Wolf, Jailer of the City of St. Louis, Missouri, commanding him that on the 24th day of January, 1910, in the forenoon, according to law, without excuse or delay, he bring, or cause to be brought, before the Honorable District Court of the United States for the Eastern Division of the Eastern Judicial District of Missouri, at the City of St. Louis, the body of Urszulia Zakonaite, by whatever name or addition she is known or called, who is unlawfully detained in his custody, to-

gether with the day and cause of her detention, then and there to abide such order and direction as said Court shall make in that behalf, and to have with him this writ, with his return endorsed thereon, and therein to fail not at his peril.

On the 24th day of January, 1910, Casper J. Wolf, Jailer of the City of St. Louis, Missouri, filed his return to said writ, and did produce in open court the body of the petitioner, which said return is to the effect that the petitioner, Urszulia Zakonaite, is held in custody by virtue of the Act of Congress, entitled, "An Act to Regulate the Immigration of Aliens into the United States", passed on the 20th day of February, 1907, and by virtue of the regulations of the Department of Commerce and Labor and Bureau of Immigration and Naturalization; and respondent further states that in accordance with Rule 35 of said Rules and Regulations, James R. Dunn, Inspector in Charge of the Immigration Service of the United States, at St. Louis, Missouri, made an application for a warrant for the arrest of said Urszulia Zakonaite, and that thereupon, to-wit, on the 5th day of January, 1910, a warrant was issued by Benjamin S. Cable, acting Secretary of Commerce and Labor, in accordance with the regulations aforesaid, which said warrant is in words and figures as follows:

WARRANT—ARREST OF ALIEN.

United States of America, Department of Commerce and Labor, Washington.
No. 527-42-52.

To James R. Dunn, Inspector in Charge of St. Louis, Mo., or to any Immigrant Inspector in the Service of the United States:

Whereas, from evidence submitted to me it ap-

pears that Urszulia Zakonaite, alien, who landed at the port of New York within a period of three years, has been found in the United States in violation of the Act of Congress, approved February 20, 1907, to-wit, that the said .... is a prostitute; that she was such at the time of entry; that she entered the United States for the purpose of prostitution or other immoral purpose and has been found an inmate of a house of prostitution and practicing prostitution within three years after entry.

I, Benj. S. Cable, acting Secretary of Commerce and Labor, by virtue of the power and authority vested in me by the laws of the United States, do hereby command you to take into custody the said alien and grant her a hearing to enable her to show cause why she should not be deported in conformity with law.

The expense of execution and detention are authorized payable from the appropriation "Expenses of Regulating Immigration, 1910". Pending disposition of her case the alien may be released from custody upon furnishing a satisfactory bond in the sum of one thousand dollars, provided that the sum is deemed sufficient to insure her appearance at the proper time; otherwise appropriate recommendation should be made for an increase in the amount of bond.

For so doing this shall be your sufficient warrant.

Witness my hand and seal this 5th day of January, 1910.

Signed BENJ. S. CABLE,
Acting Secretary of Commerce and Labor.

The return further recites that said Urszulia Zakonaite was apprehended under said warrant, and that she was in respondent's custody when said writ of *habeas*

corpus was served upon him. That after the arrest of said applicant, a hearing was accorded to her in compliance with Rule 35, Paragraph E, of the Rules and Regulations of the Department of Commerce and Labor, and that after said hearing, and as the result thereof, the Secretary of Commerce and Labor found, as a matter of fact, upon all the evidence in the case, that the said Urszulia Zakonaite was in the United States in violation of Section 3, of the Act of February 20th, 1907, and is subject to deportation from the United States; that she is an alien, and landed within this country within less than three years from the date of the issuance of said warrant; and that the allegations contained in the warrant were, and are, true, and that the Secretary of Commerce and Labor, through the Assistant Secretary, issued a warrant for the deportation of Urszulia Zakonaite to the Commissioner of Immigration, at New York, and notified the Inspector in Charge of the Immigration Service at St. Louis, Missouri, in a letter, that said warrant of deportation had been issued, and instructed said Inspector to cause said Urszulia Zakonaite to be conveyed to the City of New York for deportation; which said warrant for deportation is in words and figures, as follows, to-wit:

WARRANT—DEPORTATION OF ALIEN.

United States of America, Department of Commerce and Labor, Washington.
No. 527. 42-52. No. 1931.

To William Williams, Commissioner of Immigration, Ellis Island, N. Y. H.

Whereas, from proofs submitted to me, after due hearing before Inspector in Charge James R. Dunn, held at St. Louis, Mo., I have become satisfied that Urszulia Zakonaite, alien, who landed

at the port of New York, N. Y., on or about the 1st day of September, 1908, is in this country in violation of the Act of Congress approved February 20th, 1907, to-wit: That the said alien is a prostitute and has been found practicing prostitution within three years after landing has not elapsed;

I, Benj. S. Cable, acting Secretary of Commerce and Labor, by virtue of the power and authority vested in me by the laws of the United States, do hereby command you to return the said alien to Russia, whence she came, at the expense of the steamship company importing her, if possible, the alien to be given a further examination upon delivery at New York with a view to verifying landing. If landing cannot be verified authority is hereby granted for the purchase of transportation at lowest schedule rates payable from the appropriation "Expense of Regulating Immigration, 1910".

For so doing this shall be your sufficient warrant.

Witness my hand and seal this 18th day of January, 1910.

BENJ. S. CABLE,
Acting Secretary of Commerce and Labor.

Respondent's return further states that the question as to the truth or falsity of the charges contained in the Warrant of Arrest, as above set out, is a question to be decided in accordance with the Act of Congress aforesaid, by the Secretary of Commerce and Labor, and that the District Court is without jurisdiction to pass upon said question, or to determine the fact whether the said Urszulia Zakonaite is subject to deportation under Section 3, of said Act of February 20th, 1907, or to pass upon any other of the questions of fact attempted to be raised by the petition for a writ of *habeas corpus* herein.

The return then sets forth that the testimony in the case was taken through an interpreter and reduced to writing, and forwarded to the Secretary of Commerce and Labor for final action by him. That applicant's remedy for the correction of any mistake in said testimony, or in the findings thereon, lay in an appeal to the Secretary of Commerce and Labor; that the Secretary of Commerce and Labor, alone, has power to pass upon the facts in such case, and that he alone has power to set aside the order of deportation.

The respondent's return then pleads justification for the detention on the grounds that he is holding said prisoner under the authority of said warrant of arrest and deportation, for an on behalf of said James R. Dunn, and for and on behalf of the United States, by virtue of a contract and agreement, whereby Federal prisoners in the City of St. Louis are kept in custody by him.

On the 24th day of February, 1910, respondent filed a Supplemental Return to said petition for writ of *habeas corpus*, which, omitting formal parts, reads as follows:

> "C. J. Wolf, Jailer of the City of St. Louis, State of Missouri, states that since filing his original return to said writ, said Urszulia Zakonaite was granted a rehearing by the Secretary of Commerce and Labor, upon the charges contained in the Warrant of Arrest set forth in the respondent's original return, and that after such rehearing, and after a careful consideration of the entire evidence, said Secretary of Commerce and Labor reaffirmed his former decision, on the 16th day of February, 1910, and again notified James R. Dunn, the Inspector in Charge of the Immigration Service of the City of St. Louis, that the warrant for the de-

deportation of said Urszulia Zakonaite had been issued.".

On the 9th day of March, 1910, the petitioner filed her reply to the return and amended return theretofore filed by said Casper J. Wolf, which reply sets forth that although it is true that a warrant of deportation was issued by Benjamin S. Cable, acting Secretary of Commerce and Labor, as shown by the return of said jailer, the warrant itself shows upon its face that there was no evidence submitted to the said acting Secretary of Commerce and Labor upon which a warrant of deportation could be based, and that the only matter submitted to said Secretary was the alleged admissions of the said alien, in a hearing before Hon. James R. Dunn, Inspector in Charge at the City of St. Louis, Missouri, which said alleged admissions were not made by the said petitioner, as fully appears by the testimony given by the said alien, before said James R. Dunn, on the 1st day of February, 1910, and that the derogatory admissions alleged to have been made before the said James R. Dunn on the 7th day of January, 1910, have no foundation in fact, and their appearance in the reported testimony is due to incorrect translation, resulting through fraud or mistaken interpretation, upon the part of the interpreter employed at that time by said James R. Dunn to interpret the evidence from the Lithuanian language into the English language; and that Section 3, of the Act of Congress of February 20th, 1907, entitled, "An Act to Regulate the Immigration of Aliens into the United States", is unconstitutional, in that it attempts to interfere with the police powers of a state, to-wit, the State of Illinois; and that the alien was unlawfully apprehended in the State of Illinois, and through force,

and without her consent, and against her will, brought to the State of Missouri, and into the jurisdiction of the District Court, without an order of removal from the District of Illinois to the Eastern District of Missouri, or without any other legal process.

On the 12th day of March, 1910, a hearing was had, in the District Court, on the foregoing writ of *habeas corpus*, Jailer Wolf's returns thereto, and appellant's reply to said returns, and after arguments of counsel, the Court took the matter under advisement; and thereafter, on the 4th day of April, 1910, dismissed the petition for the writ, declined to release appellant, and ordered her to appear in court, on April 9th, 1910, in obedience to her recognizance, as duly set out at page 13 of the Transcript of the Record.

The petitioner's Assignment of Errors is set out on page 17 of the Transcript of the Record.

The petition or application for appeal to the Supreme Court of the United States was duly filed by the petitioner, as is set out at page 16 of the Transcript of the Record, which appeal was duly allowed, and a bond for the same was duly given and approved, a copy of which appeal bond is set out at pages 17-18 of the Transcript of the Record. The memorandum of the Court, in overruling the petitioner's motion for discharge, is contained at pages 13-14-15 of the Transcript of the Record.

SPECIFICATION OF ERRORS.

First: The Court erred in holding that the hearing in the State of Missouri was not unconstitutional, although it appeard the alleged offense was committed in the State of Illinois;

Second: The Court erred in holding that the peti-

tioner was not entitled to introduce evidence in this cause, for the reason that the findings of fact had been made by the Department of Commerce and Labor;

Third: The Court erred in holding that the petitioner was not detained in violation of the Constitution of the United States, and that Section 3, of the Act of Congress of February 20th, 1907, is not in violation of the Constitution of the United States;

Fourth: The Court erred in ruling that the Secretary of Commerce and Labor is the sole judge of the evidence upon which the Department based the warrant of deportation.

POINTS AND AUTHORITIES.

POINT I.

The constitutional guaranties, that no person shall be deprived of life, liberty or property, without due process of law, and that the accused, in all criminal prosecutions, shall enjoy the right to a speedy and public trial by an impartial jury of the state and district wherein the crime shall have been committed, extend to an alien, lawfully admitted into the United States.

> "Where an alien female has once been lawfully admitted into the United States, she is no longer an alien seeking admission, but is a resident within the country, and, as such, is entitled to the rights, privileges, and benefits properly appertaining and accruing to her, under the guaranties of the Constitution and laws of the land."
>
> Articles V and VI, Amendments to Constitution;
> Spring v. Morton, 182 Fed. Rep. 330;
> United States ex rel. Huber v. Sibray, 178 Fed. Rep. 144;
> Beavers v. Henkel, 194 U. S. 83.

POINT II.

The foregoing provisions of the Amendments to the Constitution are applicable to even a technically criminal prosecution, and cover an offense like that charged against appellant in the case at bar.

United States v. Zucker, 161 U. S. 481;
United States ex rel. Huber v. Sibray, 178 Fed. Rep. 144.

POINT III.

Article VI, of the Amendments cited, is held to have been intended to be restrictive of the powers of Con-

gress, and was designed to prevent interference with the rights of the states.

Davis v. Texas, 139 U. S. 653;
Eilenbecker v. Plymouth Co., 134 U. S. 35;
Barron v. Baltimore, 7 Pet. 243;
United States ex rel. Huber v. Sibray, 178 Fed. Rep. 144.

POINT IV.

The Act, approved February 20th, 1907, regulating the immigration of aliens into the United States, in so far as it attempts to confer jurisdiction upon a tribunal, sitting outside of the state in which an offense is alleged to have been committed, to hear and determine such offense, is unconstitutional, and plainly in contravention to the provisions of Articles V and VI, of the Amendments to the Constitution.

Beavers v. Henkel, 194 U. S. 83.

POINT V.

(*a*) The provisions of the Immigration Act, in question, vesting in the Federal authorities the power to try an immigrant, lawfully admitted into the United States, for a violation of the penal laws of the state of which he has become a resident, constitute an interference with the police powers, which are matters reserved for regulation by the states, and not within any powers delegated to Congress by the Constitution.

Article VI, of Amendments;
Davis v. Texas, 139 U. S. 653;
Eilenbecker v. Plymouth Co., 134 U. S. 35;
Barron v. Baltimore, 7 Pet. 243;
Keller v. United States, 213 U. S. 138-139;
Welman v. United States, 213 U. S. 138-139;
United States ex rel. Huber v. Sibray, 178 Fed. Rep. 144-150.

(*b*) The State of Illinois, by its statutes, at the time of appellant's apprehension by the Department of Commerce and Labor, had reserved the right to try and punish offenses of the nature of the one with which appellant was charged, and the action of the Inspector of Immigration, at St. Louis, under the orders of the Secretary of Commerce and Labor, in arraigning, trying and convicting appellant, and ordering her deportation from the country, amounted to an unlawful interference with the right of the State of Illinois to deal with the accused.

Section 55, of Chapter 38, of the Criminal Code of Illinois, applicable to the case, reads:

> "Whoever shall be guilty of open lewdness, disorderly conduct, or other notorious act of public indecency, tending to debauch the public morals, shall be fined not exceeding $200."
>
> Hurd's Rev. Stats., 1909, p. 762.

(*c*) While it is undoubtedly true, that the right is reserved in the national government to control and regulate all matters relating to the immigration of aliens into the United States, and to determine the immigrant's status, after he has been lawfully admitted into the country, still, where the right to deport is made dependent upon the infraction of the penal laws of the states, conviction of the accused immigrant for an offense which forfeits his right to remain an inhabitant of the country, in a state court having jurisdiction over the person of the accused, and the subject-matter of the action, should alone furnish the basis for the issuance of a warrant of deportation. This view of the subject would not restrict the power of the Federal Government, for if the state authorities should

show any apathy in the matter of prosecuting the offender, the Federal officers, charged with the enforcement of the immigration laws, would be at liberty to move in the premises, by information, or by other appropriate and customary proceedings, to put in motion the machinery of the court, for the apprehension and trial of the immigrant. Such an interpretation of the Act would preclude the possibility of coming into collision with any constitutional question in carrying into execution its provisions.

POINT VI.

(*a*) The Department of Commerce and Labor was created as an arm of the executive branch of the government, and its operations must be confined to powers delegated to that branch by the Constitution.

The Act of Congress, by virtue of which the Department of Commerce and Labor issued the warrant for appellant's deportation, vests in the executive branch of the government, judicial powers, and this grant of power is clearly in conflict with the Constitution.

Constitution, Article III, Section 1.

(*b*) A valid order, for the deportation of an immigrant who has become entitled to the rights, privileges and benefits of the Constitution, requires the authority of the finding and judgment of a tribunal possessing the undoubted right to exercise judicial powers, and the warrant under consideration, lacking this foundation, is void.

(*c*) It is manifest, from the provisions of the Act creating the Department of Commerce and Labor, that Congress never intended to establish the Department as a court, and the attempted exercise of judicial powers by the Department's Immigration Inspector, at the

City of St. Louis, at the hearing of the charge brought against appellant, is without authority of law, and the order or judgment, entered at the conclusion of the proceedings, is unconstitutional and void.

POINT VII.

(*a*) The Immigration Act, in question, in making the findings of fact of the Department of Commerce and Labor conclusive, and not reviewable by the Courts, in a proceeding like the one under discussion, is violative of the Constitution, which inhibits the suspension or abridgement of the writ of *habeas corpus*, excepting in the cases mentioned in the Constitution.

Article I, Section 9;
Spring v. Morton, 182 Fed. Rep. 330;
Chin Yan v. United States, 208 U. S. 11.

(*b*) The Honorable District Court, therefore, committed error, in holding that said District Court was precluded, by the findings of fact of the Department, from passing on the facts in the case, and in ruling out the evidence offered by the petitioner to show that she was illegally deprived of her liberty.

See citations, Point VI, (*a*);
Davies v. Manolis, 179 Fed. Rep. 818;
Spring v. Morton, 182 Fed. Rep. 330;
Chin Yan v. United States, 208 U. S. 11.

POINT VIII.

Conceding, for the purpose of argument, that the Department of Commerce and Labor had been legally invested with judicial powers, and, by due process of law, acquired jurisdiction over the person of appellant, and the subject matter of the action, the record unmistakably shows that the trial was conducted in contra-

vention to the provisions of the Constitution, requiring the accused to be confronted with the witnesses against her; to have compulsory process for obtaining witnesses in her favor, and to have the assistance of counsel for her defense. Refusal of all these rights, at the first hearing, at which the alleged damaging admissions were extracted from the accused, forming the basis for finding appellant guilty, as charged, constitutes the order made by the Department oppressive, unjust and illegal.

Amendments, Article VI;
United States ex rel. Huber v. Sibray, 178 Fed. Rep. 144;
Spring v. Morton, 182 Fed. Rep. 330.

POINT IX.

Where an accused alien, to whom the safeguards of the Constitution have accrued and properly appertain, is forcibly, and without her consent, and against her will, removed from the State of Illinois, of which she was an inhabitant at the time, and carried into the State of Missouri, and arraigned, tried and convicted before a tribunal in the latter state, of an offense against the penal laws of the land, alleged to have been committed in the state from which she was removed, she is unquestionably deprived of her liberty, without due process of law, and most clearly denied her constitutional rights, and the courts should unhesitatingly order her release and discharge.

Articles V and VI, Amendments;
United States ex rel. Huber v. Sibray, 178 Fed. Rep. 144;
Davies v. Manolis, 179 Fed. Rep. 818.

ARGUMENT.

The right of a nation to exclude all, or any class of aliens, from its borders, if it sees proper to do so, is unquestionable, and this undeniable right, inherent in the United States, has found expression in the Exclusion Acts passed by Congress, and in force at the present time. In these legislative enactments, power to enforce the provisions thereof has properly been delegated to the executive branch of our government, and may, undoubtedly, be exercised by the officers of that branch, or the department created for that purpose, without danger of invading the province of the judicial branch, and without coming into conflict with the Constitution, requiring the rights of these branches to be kept independent of each other. Our courts have uniformly held, that the determination of the question of what persons fall within the excluded class, and the power to compel their return, when they land, with the intention of remaining in this country, and of ordering their deportation, when they have effected a landing contrary to the provisions of our laws, reside solely in the executive department. And it matters not, where the alien's entry has been unlawful, how far he may have penetrated into the United States, he may be apprehended by the proper officers of the department charged with the duty of carrying into execution the exclusion laws applicable to such alien, and his deportation ordered and effected by the department. The alien, in such case, is clearly afforded all the rights to which he is entitled, for he has never possessed the privileges of a resident upon our shores. But the decisions draw a clear distinction between the case of an

alien whom Congress has elected to exclude from the country, or of one seeking admission, and that of an alien who has been lawfully admitted into the United States, and established a residence in one of the several states. In the latter instance, the alien lawfully received within our borders, immediately becomes, by virture of the government's consent to his admission, entitled to all the rights, privileges and benefits of the other residents of the state in which said alien has chosen his domicile, guaranteed to the inhabitants of the several states by the Constitution and laws of the land. (Spring v. Morton, 182 Fed. Rep. 330.) And the security and protection of the Constitution appertain and accrue to him precisely to the same extent as to other residents. We do not, however, wish to be understood by this contention that the alien's conduct subsequent to his legal admission into the United States may not, within the period of limitation fixed by the immigration acts, afford ground for his deportation therefrom, for from the right to exclude altogether follows, necessarily, the right of this nation to prescribe the conditions under which an alien may be admitted into, and remain as an inhabitant of, the country. We do assert, however, that after an alien has rightfully become a part of the inhabitants of one of our states the law-making bodies of the land cannot discriminate against him and deprive him of the rights, privileges and immunities granted to other residents by the Constitution. These must be preserved to him, inviolate, under the rulings of our courts. Without a dissenting voice our courts have held, ever since the founding of our institutions, that the locality where the offense is charged to have been committed always determines the court and place of trial. (Beavers v. Henkel, 194 U.

S. 83.) Article VI of the Amendments makes it compulsory that a person accused of a violation of the penal laws of the land shall be tried in the state and district where the offense is alleged to have been committed, and a trial in any other state, be it near by or far removed, from the one in which the offense is charged to have been perpetrated, is an absolute nullity. This Amendment is restrictive of the power of the Federal Government, and was designed to prevent interference with the rights of the states. Davis v. Texas, 139 U. S. 653; Eilenbecker v. Plymouth Co., 134 U. S. 35; Barron v. Baltimore, 7 Pet. 243. *It is applicable even to a technically criminal prosecution.* United States v. Zucker, 161 U. S. 481.

The right, which we have conceded to be inherent in our government, to make laws discriminating amongst the aliens allowed to enter and become residents of this country, was recognized and given expression by Congress, by the passage of the act regulating the immigration of aliens into the United States, approved February 20th, 1907. By this statute, too, the power to enforce its provisions was conferred upon the Department of Commerce and Labor, an arm of the executive branch of the government, and was properly lodged there, and can be legally enforced by the department established for that purpose, in so far as it does not call for the exercise of judicial functions, and thereby interfere with our system of government, precluding the legislative and executive branches from encroaching upon the powers residing solely in the judiciary. That this limitation in the Constitution has either been disregarded in the enactment, or the Immigration Act in question, misinterpreted by the officers charged with its enforcement and by the Court

below, it seems to us, is apparent from the action of the Secretary of Commerce and Labor and his Inspector of Immigration at St. Louis, complained of in the case at bar, and from the rulings of said Court thereon, assigned as error on this appeal.

The record in this case presents evidence that is clear and cogent and convincing to the mind of the reader that the apprehension, trial and conviction of appellant, and the judgment for her deportation, based upon these proceedings, are all contrary to the Constitution and laws of the land, and have resulted in the abuse, injustice and suffering which the framers of the Constitution plainly intended to avert. Obedience to the carefully worded provisions of this document, however, seems not to have been considered in the zeal of the officers of the Department of Commerce and Labor, in properly and efficiently discharging the duties they deemed imposed upon them by the Immigration Act, under which they were proceeding. Nor did Congress, it would seem, use that degree of care and precaution in enacting the law under discussion that should have been exercised, to avoid any conflict with the Constitution. Doubtless, neither the legislative nor executive branches intended to ignore the limitations placed upon their powers, and both were actuated by a most laudable purpose to keep our country free from the inhabitation of undesirable aliens. This over-zealousness, in the case at bar, has led to gross injustice to a poor, unsophisticated, hard-working young woman, who fled from her own country where such atrocities were possible under her form of government, hoping to find here that freedom, fairness, protection and security which have always been the boast of this country. If the precedent established in appellant's case is permitted

to stand, and the officers in the service of the executive branch of the government left unrestrained in their liberty to violate the restrictions contained in the Constitution, far greater atrocities will not only be made possible, but will become probable, than the one of which complaint is made in this Court. Briefly summarized, the facts in appellant's case, as disclosed by the record, show that Urszulia Zakonaite, a young woman of the Lithuanian race, aged about twenty-four years, left her home in Russia, and came to this country, about two years before her apprehension, and made her residence at East St. Louis, in the State of Illinois; during her residence in that city, covering the period named, she was engaged, with the exception of about four weeks, at hard labor in the packing houses, with the hours of her work ranging from eight to ten daily. On the affidavits of persons, whose motives are unknown, she was arrested, **"and without proper process of law"**, as the Honorable District Court sets forth in his opinion, handed down at the hearing on the writ of *habeas corpus*, removed from the State of Illinois, into the State of Missouri, and without being confronted by the witnesses against her, and upon whose evidence the arrest was made, and without the benefit of counsel to conduct her defense, the Immigration Inspector, at St. Louis, arraigned her and proceeded to try her case, and at this hearing, the damaging admissions which she is alleged to have made, which she subsequently repudiated, were reported by the interpreter employed by the Inspector to translate her statements from the Lithuanian into the English language. At a rehearing before the Inspector, at which the accused was represented by counsel, the repudiation of these alleged admissions was clearly made

by appellant, but the impression of her character upon the mind of her trier, at the first hearing, was so deeply rooted that it could not be removed by evidence, and undoubtedly formed the basis for the issuance of the warrant of deportation. Assuming, for the purpose of argument, that appellant had been guilty, as charged, of practicing prostitution within three years after landing in this country, and that she remained during that period the ward of the Federal Government, and subject to trial upon this charge solely in a Federal tribunal, then, beyond the shadow of a doubt, her offense was cognizable, according to the clear import of the provisions of Article VI of the Amendments, only in a court in the district, in the State of Illinois, where the offense was alleged to have been committed. A trial in any other jurisdiction will not satisfy this constitutional requirement, and it will not aid the proceedings which appellant is assailing, nor the provisions of the Immigration Act which are plead as a justification for the Department's action, to assert that the accused was merely transported across the Mississippi River, from one state into another, nor would it avail if the dividing line between the states had been purely an imaginary one instead of a navigable river. If the right is conceded to remove an accused person from the jurisdiction of a court in one state to that of another without any legal process, and that he may be subjected to trial in the latter jurisdiction for an offense committed in the former, then it must logically follow that one charged with an offense against the penal laws of the land may be removed from the state where the offense was alleged to have been committed, to any state of these United States, or to any territorial possession of our government, and under circumstances like those

existing in the case at bar, the trial would be as legal, and the conviction and judgment as unassailable, if they took place in the Philippine Islands, or Alaska, as in the City of St. Louis. It requires but a moment's reflection to clearly see the injustice of such a doctrine; yet such is the doctrine that must be enunciated by this Court if the judgment of the lower court be affirmed.

No criticism is aimed at the action of Congress in providing for the deportation of female aliens, lawfully received into the United States, who shall be found practicing prostitution within three years after landing upon our shores. Complaint is made only as to the manner of enforcing this wise provision of the immigration acts, and of the construction which has been placed upon these laws, permitting the safeguards of liberty and property thrown about all the inhabitants of the country by the Constitution, to be ignored, and criminal prosecutions conducted directly in opposition to the plainest demands of the Constitution. To charge a woman with practicing prostitution is a most serious charge, one certainly technically criminal in its nature, and which, if sustained, may not only deprive the accused of her liberty, but of that which is dearer than life itself to her. When such an accusation is directed against an inhabitant of this country, the Constitution and laws of the land should afford, and do furnish to the accused all reasonable means for her defense, and to enable her to exonerate herself from the stigma of such an infamous accusation. An alien, lawfully admitted into the country, stands in precisely the same attitude, when accused of this offense, as a native of our land, and must be arraigned and tried in the same manner as such native, and is clothed to the same degree with the protection and security of the Con-

stitution and laws of the land. It is difficult to understand how there can be any diversity of opinion on the question of trying the accused in the state and in the district thereof in which the offense is alleged to have been committed. One of the objects of the guarantee of of a trial before a court at the place of the alleged offense, is to afford the accused a hearing in the community in which she is known, thereby affording her the amplest opportunity, which would be denied in any other locality, of establishing her innocence of the charge. And jurisdiction, in such cases, is vested in the state tribunals, not only for the reason that the latter are presumed to ordinarily offer a fairer trial to the accused, but also to avoid any interference with the police powers, which are matters reserved for regulation by the sovereign states, and not within any powers delegated to Congress by the Constitution. It seems to us that due effect can be given to the provisions of the Act of Congress under which appellant is sought to be deported, by an interpretation of that provision which would require the state authorities to take the initiative, and then allow the executive branch of the government, upon legal conviction, to put in operation the deportation laws, and issue a warrant based on such conviction. It will be observed that the Illinois statute, quoted under Point V of this Brief, furnishes ample authority for such proceedings and conviction in a case like that at bar, and that state having elected, by the enactment of this statute, to deal with the subject, no Federal law should be allowed to interfere with the state's courts in the matter. The Constitution, and the ends of justice, both demand the construction of the Immigration Act contended for by appellant.

A law which sanctions, or an interpretation of that law which makes it possible for the executive branch of the government to adjudge the guilt of a person of the offense charged against appellant, will not, we are confident, be upheld, for the resultant evils of allowing such a law, or construction thereof, are too apparent from the record in this case, and the greater evils that may follow from a precedent of this nature must likewise have been projected upon the mind of the reader of the record. The privilege of the writ of *habeas corpus* has been upheld where the Constitution's guaranties have been far less flagrantly disregarded than in the case at bar, and there is no reported decision supporting the judgment of the court below, denying the petition of appellant for the writ. There was an absolute lack of jurisdiction in the Department of Commerce and Labor, sitting at St. Louis, to hear and determine the offense, clearly appearing from the uncontroverted facts in the case; it also appears that appellant was not confronted with the witnesses against her, thereby denying her the opportunity to cross-examine them. In the cases of Keller v. United States, 213 U. S. 138-139, and Welman v. United States, 213 U. S. 138-139, in which writs of error were sued out from judgments of conviction for harboring an alien prostitute, this Court held:

> "That portion of the Act of February 20th, 1907, C. 1134, 34 Stat. 898, which makes it a felony to harbor alien prostitutes, is unconstitutional, as to one harboring such a prostitute without knowledge of her alienage, or in connection with her coming into the United States, as a regulation of a matter within the police power reserved for the States and not within any power delegated to Congress by the Constitution."

And, again, it was held, in United States *ex rel.* Huber v. Sibray, 178 Fed. Rep. 144: First, that an alien prosecuted under Rule 35, Paragraph E, has about all the rights of a man charged with a crime, **hence has a right to be tried under the jurisdiction where the alleged offense is committed**. Second, that an alien living in adultery within the United States is not ground for deportation, such conduct being solely within the police power of the State.

In the case of Davies v. Manolis, 179 Fed. Rep. 818, the Court said:

> "Nor can finality of executive decision have sanction under our system of government."

It was **held** in the last named case that the finding of the Department of Commerce and Labor is reviewable by the courts as to questions of law: *Quaere*, why not as to questions of fact? "In proceedings under the immigration laws, the final determination of the statute applicable to the case, and interpretation of the grant of power therein, cannot rest with the executive officers, under our system of government, but the ultimate decision of such questions must remain with the courts."

The Court, in the case of Spring v. Morton, 182 Fed. Rep. 330, holds that, while Congress has conferred on all executive officials of the United States the exclusive right to determine questions pertaining to the admission and deportation of aliens, by Act of Congress, February 20th, 1907, C. 1134, 34 Stat. 898, the courts are not thereby deprived of jurisdiction to inquire into the cause of detention, to determine whether they are lawfully within the country, etc. **Whether a person held by immigration officers for deportation is within**

a class amenable to a particular jurisdiction may be reviewed by the courts on habeas corpus.

And in Chin Yan v. United States, 208 U. S. 11, the Court declares that the conclusiveness of the decision of the Department of Commerce and Labor is subject to review by the courts; that the Federal courts have jurisdiction to determine, on *habeas corpus*, whether an alien has had a proper hearing, and if he has not had one to determine the merits.

In conclusion, we beg to observe that even though the Department of Commerce and Labor had been duly established as a court, and Congress had made use of all the accustomed formalities in the delegation of power to the Department, to exercise judicial functions, and this power had been exercised in the usual and customary manner, in the trial of appellant, with strict observance to all the constitutional guaranties required to be observed in the conduct of trials of a similar nature, an insurmountable obstacle still remains to an affirmance of the conviction in the fact that appellant was dragged from the State of Illinois, where the alleged offense was committed, and tried in Missouri.

We are not unmindful of the fact where a glaring error, like the one just alluded to, is committed in the course of a trial, appellate courts often deem it unnecessary to notice errors of slighter degree, and counsel, too, are not infrequently inclined to disregard the lesser errors and urge only the strongest ground for reversal disclosed by the record. We, however, not only regard it a duty owing to appellant to bring to the attention of this Court the other errors properly arising on the record, relating to the misinterpretation by the Department of Commerce and Labor, and by the Honorable District Court, of the act under

whose purported authority appellant was tried and convicted, and to the constitutional infirmities in some of the provisions of that act, pointed out in this brief, but feel that there is also an obligation resting on us to aid in wiping out unconstitutional statutes and practices, to ask the earnest consideration by this Court of the last named errors, to the end that all portions of the act regulating the immigration of aliens into the United States, which are assailed or in question on this appeal, may be construed according to law, and that an opinion may be handed down in this case which will not only serve as a beacon light to the Department of Commerce and Labor in its future action, but also prevent injustice to many others of the class of appellant who might, in similar proceedings against them, if the practice established by the Department, in appellant's case, is not condemned, suffer as great or greater wrong than appellant.

We respectfully submit that, for the errors specified and complained of, the judgment of the Honorable District Court should be reversed and judgment *nisi* entered in this court ordering the release and discharge of appellant.

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No. 153.

In the Supreme Court of the United States.

OCTOBER TERM, 1912.

URSULLA FALCONARIE, APPELLANT,

v.

CASPER J. WOLF, JAILOR OF THE CITY OF ST. LOUIS.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF MISSOURI.

BRIEF FOR THE UNITED STATES.

WASHINGTON: GOVERNMENT PRINTING OFFICE, 1912

In the Supreme Court of the United States.

OCTOBER TERM, 1912.

URSZULIA ZAKONAITE, APPELLANT,
v.
CASPER J. WOLF, JAILOR OF THE City of St. Louis. } No. 53.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF MISSOURI.

BRIEF FOR THE UNITED STATES.

STATEMENT OF CASE.

The appellant, a native of Russia, of the Lithuanian race (R., 20), was ordered deported by the Secretary of Commerce and Labor because she "is a prostitute and has been found practicing prostitution within three years after landing has not elapsed" (R., 7).

She applied to the District Court for a writ of habeas corpus, alleging that the answers she had made to the immigration inspector who had examined her through an interpreter, had been misinterpreted, through fraud or mistake, and that she

had not, as charged, admitted that she was a prostitute (R., 2).

The writ issued (R., 3), and a return was filed thereto (R., 5), in which it was alleged, in substance, that petitioner was apprehended upon a warrant issued by the Acting Secretary of Commerce and Labor (R., 5–6), and, after a due hearing, was ordered deported (R., 6–7). The return further alleged that the District Court was without jurisdiction to pass upon the truth or falsity of the charge against petitioner, and that her remedy lay in an appeal to the Secretary of Commerce and Labor.

A supplemental return was filed, in which it was alleged that petitioner had been granted a rehearing by the Secretary of Commerce and Labor, who had, upon a careful consideration of the entire evidence, reaffirmed his previous decision that the alien be deported. (R., 9.)

The reply to the return (R., 11) alleged that there was no evidence submitted to the Acting Secretary of Commerce and Labor upon which a warrant of deportation could be based; that the answers of petitioner at the hearing before the inspector had been misinterpreted; and that section 3 of the immigration act of February 20, 1907, was unconstitutional, in that it attempts to interfere with the police powers of the State.

The reply also alleged that petitioner had been unlawfully apprehended in the State of Illinois and removed by force into the State of Missouri and within

the jurisdiction of the court, without a judicial order of removal.

The court, in an opinion, dismissed the petition, holding that "the Secretary is the sole judge of the testimony upon which he based the warrant of deportation," and that "the act of Congress under which he acted is a valid law and free from the objection urged against it." (R., 13–15.)

Thereupon this appeal was taken. (R., 16–18.)

ARGUMENT.

I.

Constitutional provisions relating to the trial of crimes have no application to deportation proceedings.

Appellant's brief is devoted almost exclusively to arguments against the jurisdiction of the immigration authorities, based upon the idea that these deportation proceedings constitute a criminal case. This is, of course, clearly erroneous, and therefore the provisions of the Constitution relating to trial by jury in the district where the offense was committed, etc., have no application.

In *Fong Yue Ting* v. *United States* (149 U. S., 698, 730) the court, speaking of the proceedings for the deportation of Chinese provided by the act of May 5, 1892, said:

> The proceeding before a United States judge, as provided for in section 6 of the act of 1892, is in no proper sense a trial and sen-

tence for a crime or offense. It is simply the ascertainment, by appropriate and lawful means, of the fact whether the conditions exist upon which Congress has enacted that an alien of this class may remain within the country. The order of deportation is not a punishment for crime. It is not a banishment, in the sense in which that word is often applied to the expulsion of a citizen from his country by way of punishment. It is but a method of enforcing the return to his own country of an alien who has not complied with the conditions upon the performance of which the government of the nation, acting within its constitutional authority and through the proper departments, has determined that his continuing to reside here shall depend. He has not, therefore, been deprived of life, liberty or property, without due process of law, and the provisions of the Constitution, securing the right of trial by jury, and prohibiting unreasonable searches and seizures, and cruel and unusual punishments, have no application.

In *Turner* v. *Williams* (194 U. S., 279, 289–290) the court said:

> Repeated decisions of this court have determined that Congress has the power to exclude aliens from the United States; to prescribe the terms and conditions on which they may come in; to establish regulations for sending out of the country such aliens as have entered in violation of law, and to commit the enforcement of such conditions and regula-

> tions to executive officers; that the deportation of an alien who is found to be here in violation of law is not a deprivation of liberty without due process of law, and that the provisions of the Constitution securing the right of trial by jury have no application.

See also *Keller* v. *United States*, 213 U. S., 138, 143; *Low Wah Suey* v. *Backus*, 225 U. S., 460, 468.

Counsel for appellant misinterprets the statement in *United States* v. *Zucker* (161 U. S., 481), that "the Sixth Amendment relates to a prosecution of an accused person which is *technically* criminal in its nature." These words were used in exactly the opposite sense to that given them by counsel; that is to say, for the purpose of stating that the Sixth Amendment was limited to strictly criminal cases. This is shown by the holding in that case that, in an action against importers to recover the value of merchandise forfeited to the United States under the customs laws, the defendants were not entitled to be confronted with the witnesses against them, but their testimony might be adduced by deposition.

After making the statement referred to, the court in the Zucker case said (161 U. S., 481):

> * * * The words, in the Sixth Amendment, "to be informed of the nature and cause of the accusation," obviously refer to a person accused of crime, whether a felony or misdemeanor, for which he is prosecuted by indictment or presentment, or in some other authorized mode which may involve his personal security. So the clause declar-

> ing that the accused, in a criminal prosecution, is entitled "to be confronted with the witnesses against him" has no reference to any proceeding (although the evidence therein may disclose, of necessity, the commission of a public offense) which is not directly against a person who is accused, and upon whom a fine or imprisonment, or both, may be imposed.

It is only when punishment, by way of fine or imprisonment for a violation of law, is sought to be imposed upon an alien in connection with his deportation that the matter becomes criminal and a judicial trial is required.

> *Wong Wing* v. *United States*, 163 U. S., 228, 237.

For the same reasons the argument that these deportation proceedings are an interference with the police powers of the State is without merit.

II.

The findings of the Secretary of Commerce and Labor were conclusive.

The conclusiveness of the findings made by the Secretary of Commerce and Labor in these deportation cases, where a fair hearing has been accorded the petitioner, is also settled by the decisions of this court.

> *Low Wah Suey* v. *Backus*, 225 U. S., 460, 468.
> *Tang Tun* v. *Edsell*, 223 U. S., 673.
> *Chin Yow* v. *United States*, 208 U. S., 8.

In the *Chin Yow* case, the court said (208 U. S., 11):

> * * * If the petitioner was not denied a fair opportunity to produce the evidence that he desired, or a fair though summary hearing, the case can proceed no farther. Those facts are the foundation of the jurisdiction of the District Court, if it has any jurisdiction at all.

The record shows that appellant had a fair hearing before the immigration authorities, and that the evidence adduced at that hearing supported the finding that she was a prostitute. At the hearing before the immigrant inspector, after the warrant of arrest, charging that she was a prostitute and was found practicing prostitution (R., 5), had been read and explained and she had waived representation by counsel, *appellant admitted that she was a prostitute* (R., 20–23). She later denied such an admission (R., 31–39), but witnesses testified that she was "commonly known as a prostitute" (R., 29); that they had "frequently seen her with different men on the streets under such circumstances as to indicate that she is a woman of bad character and a common prostitute" (R., 29); that "she conducts herself on the street like a common prostitute," this witness having "often seen her roping or soliciting men and taking them with her" (R., 30), and police officers testified that a house of prostitution was conducted at the place where she lived (R., 57–58).

The pastor of the Lithuanian Roman Catholic Church testified that the place where she lived was

known to him as "a nest of prostitutes" and that "from her appearance, her actions, the places she visits, the company she keeps, and from reliable information I have received from my devoted parishioners, I have no hesitancy in saying that she is a prostitute" (R., 30). The interpreter stated (R., 20):

> She is now a prostitute, and when I went to her room to find out when did she come to this country she asked me to go to bed with her.

From the supplemental return (R., 9) it appears that a rehearing was granted appellant by the Secretary of Commerce and Labor, and that after careful consideration of the entire evidence the former decision that she should be deported was affirmed.

The contention that there was no evidence before the Secretary to justify the deportation of appellant is therefore without merit, as also the contention that the District Court erred in not permitting the introduction of further evidence. It is to be noted that the assignments of error (R., 17) contain the only intimation in the record that the court refused to permit the introduction of further evidence.

III.

The plenary authority of Congress to expel aliens is no longer open to question.

The opinion of the court (R., 13–15) suggests the question whether Congress has authority to order the deportation of an alien who was not objectionable at

the time she entered the United States. This question is of course settled by the decisions with respect to the Chinese, which are to the effect that the power to deport or exclude foreigners is absolute and unqualified.

In *Fong Yue Ting* v. *United States* (149 U. S., 698), the alien concerned had entered the country lawfully and had been a permanent resident since 1879. He was arrested for not having the certificate of residence required by the act of May 5, 1892. In sustaining the judgment of the Circuit Court dismissing a writ of habeas corpus, this court said (pp. 707, 713):

> The right of a nation to expel or deport foreigners, who have not been naturalized or taken any steps toward becoming citizens of the country, rests upon the same grounds, and is as absolute and unqualified as the right to prohibit and prevent their entrance into the country. * * *
>
> The power to exclude aliens and the power to expel them rest upon one foundation, are derived from one source, are supported by the same reasons, and are in truth but parts of one and the same power.
>
> The power of Congress, therefore, to expel, like the power to exclude aliens, or any specified class of aliens, from the country, may be exercised entirely through executive officers.

So, in *Wong Wing* v. *United States* (163 U. S., 228, 237), the court said:

> * * * We regard it as settled by our previous decisions that the United States

can, as a matter of public policy, by Congressional enactment, forbid aliens or classes of aliens from coming within their borders, and expel aliens or classes of aliens from their territory, and can, in order to make effectual such decree of exclusion or expulsion, devolve the power and duty of identifying and arresting the persons included in such decree and causing their deportation, upon executive or subordinate officials.

* * * * *

No limits can be put by the courts upon the power of Congress to protect, by summary methods, the country from the advent of aliens whose race or habits render them undesirable as citizens, or to expel such if they have already found their way into our land and unlawfully remain therein.

IV.

All the questions presented being well settled, the appeal should be dismissed or the judgment below affirmed.

It is respectfully submitted that, as the questions presented in this record have all been settled by the decisions of this court, the appeal should be dismissed or the judgment of the District Court affirmed.

Yeung How v. *North*, 223 U. S., 705.

Mike Beecham v. *United States*, 223 U. S., 708.

WILLIAM R. HARR,
Assistant Attorney General.

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ZAKONAITE *v.* WOLF, JAILOR OF THE CITY OF ST. LOUIS.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF MISSOURI.

No. 53. Argued November 14, 1912.—Decided December 2, 1912.

The evidence in this case, upon which the order of deportation of an alien on the ground that she was a prostitute and was found practic-

ing prostitution within three years after her entry into the United States was based, being adequate to support the conclusions of fact of the Secretary of Commerce and Labor, and there having been a fair hearing, those findings are not subject to review by the courts.

The authority of Congress to prohibit aliens from coming within the United States includes the authority to impose conditions upon the performance of which the continued liberty of the alien to reside within the country depends.

A proceeding to enforce regulations under which aliens may continue to reside within the United States is not a criminal proceeding within the meaning of the Fifth and Sixth Amendments.

Congress may properly devolve a proceeding to enforce regulations under which aliens are permitted to remain within the United States upon an executive department or subordinate officials thereof and may make conclusive the findings of fact reached by such officials after a summary hearing, if fair.

Section 3 of the act of February 20, 1907, 34 Stat. 898, c. 1134, providing for deportation of alien prostitutes within three years after entry into the United States and providing a summary proceeding for determining the fact by the Secretary of Commerce and Labor, does not violate either the Fifth or Sixth Amendment by depriving the alien of her liberty without due process of law or by denying her a jury trial.

THE facts are stated in the opinion.

Mr. L. G. Pope, with whom *Mr. Chas. F. Joy* and *Mr. Henry B. Davis* were on the brief, for appellant.

Mr. Assistant Attorney General Harr for appellee.

Memorandum opinion, by direction of the court, by MR. JUSTICE PITNEY.

The appellant, having been arrested and held in custody under warrants of arrest and deportation issued by the Acting Secretary of Commerce and Labor under the Immigration Act of February 20, 1907, sought to be discharged upon *habeas corpus* issued out of the Dis-

trict Court, and, that court having upon hearing ordered the dismissal of the writ, she prosecutes this appeal.

From the return and supplemental return of the respondent it appears that the appellant is an alien and that as the result of a hearing and re-hearing conducted in compliance with Rule 35, paragraph E of the Rules and Regulations of the Department of Commerce and Labor, she was found to be in the United States in violation of § 3 of the act referred to, and subject to deportation, in that she was a prostitute, and had been found practicing prostitution within three years after her entry into the United States.

In her behalf it was contended in the court below, and is here contended, first, that there was no evidence before the Secretary of Commerce and Labor sufficient to warrant the findings of fact upon which the order of deportation was based; and, secondly, that § 3 of the act of February 20, 1907 (34 Stat. 898, 899, c. 1134), which provides that "any alien woman or girl who shall be found an inmate of a house of prostitution or practicing prostitution, at any time within three years after she shall have entered the United States, shall be deemed to be unlawfully within the United States, and shall be deported as provided by sections twenty and twenty-one of this Act,"—is unconstitutional because violative of the guaranties that no person shall be deprived of life, liberty or property without due process of law, and that in all criminal prosecutions the accused shall enjoy the right to a speedy and public trial by an impartial jury of the State and district wherein the crime shall have been committed, as contained in the Fifth and Sixth Amendments.

As to the first point, an examination of the evidence upon which the order of deportation was based convinces us that it was adequate to support the Secretary's con-

clusion of fact. That being so, and the appellant having had a fair hearing, the findings are not subject to review by the courts.

With respect to the second point little more need be said. It is entirely settled that the authority of Congress to prohibit aliens from coming within the United States and to regulate their coming includes authority to impose conditions upon the performance of which the continued liberty of the alien to reside within the bounds of this country may be made to depend; that a proceeding to enforce such regulations is not a criminal prosecution within the meaning of the Fifth and Sixth Amendments; that such an inquiry may be properly devolved upon an executive department or subordinate officials thereof, and that the findings of fact reached by such officials, after a fair though summary hearing, may constitutionally be made conclusive, as they are made by the provisions of the act in question. *Fong Yue Ting* v. *United States*, 149 U. S. 698, 730; *United States* v. *Zucker*, 161 U. S. 475, 481; *Wong Wing* v. *United States*, 163 U. S. 228, 237; *Turner* v. *Williams*, 194 U. S. 279, 289; *Chin Yow* v. *United States*, 208 U. S. 8, 11; *Tang Tun* v. *Edsell*, 223 U. S. 673, 675; *Low Wah Suey* v. *Backus*, 225 U. S. 460, 468.

The appellant raises some other constitutional objections, viz.: that the Immigration Act vests in the Federal authorities the power to try an immigrant for a violation of the penal laws of the State of which he has become a resident, and so interferes with the police powers of the State; that the act vests judicial powers in an executive branch of the Government; that it violates the constitutional guaranty of the privilege of the writ of *habeas corpus*, and the like. These are without substance, and require no discussion.

Final order affirmed.